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Wray, L. Ch. J.
Hollinshed.
Sir Tho. Smith.

Arcana Parliamentaria:

OR

PRECEDENTS

CONCERNING

Elections, Proceedings, Privileges, and Punishments in

PARLIAMENT.

Faithfully collected out of the *Common* and *Statute-Law* of this Realm.

With particular Quotations of the Authors in each Case.

By R.C. *of the Middle Temple*, Esq;

To which is added,

The Authority, Form, and Manner of Holding Parliaments.

By the Learned Sir Tho. Smith, *Doctor of Laws.*

London, Printed for *M. Gilliflower*, at the *Spread Eagle* and *Crown* in *West-minster-Hall.* 1685.

The Authority, Form, and Manner of holding Parliaments.

THE moſt high and abſolute Power of the Realm of *England* conſiſteth in the Parliament. For, as in War, where the King himſelf in Perſon, the Nobility, the reſt of the Gentility, and the Yeomanry are, is the Force and Power of *England*; So in Peace and Conſultation, where the Prince is to give Life, and the laſt and higheſt Commandment; the Barony or Nobility for the higher, the Knights, Eſquires, Gentlemen and Commons for the lower part of the Common-wealth; the Biſhops for the Clergy, be preſent to advertiſe, conſult, and ſhew what is good and neceſſary for the Common-wealth, and to conſult together; and upon mature deliberation, every Bill or Law being thrice read and

disputed upon in either House, the other two Parts, first each apart, and after the Prince himself, in presence of both the Parties, doth consent unto and alloweth. That is the Princes and whole Realms Deed; whereupon justly no man can complain, but must accommodate himself to find it good, and obey it.

That which is done by this Consent is called firm, stable and *sanctum*, and is taken for Law. The Parliament abrogateth old Laws, maketh new, giveth order for things past, and for things hereafter to be followed, changeth Right and Possessions of private men, legitimateth Bastards, establisheth Forms of Religion, altereth Weights and Measures, defineth of doubtful Rights, whereof is no Law already made, do appoint Subsidies, Talies, Taxes, and Impositions, giveth most free Pardons and Absolutions, restoreth in Blood and Name: as the highest Court, condemneth or absolveth them whom the Prince will put to Tryal: And to be short, all that ever the People of *Rome* might do, either *Centuriatis Comitiis*, or *Tributis*, the same may be done by the Parliament of *England*, which representeth, and hath the Power of the whole Realm,

Realm, both the Head and Body. For every Engliſh-man is intended to be there preſent, either in Perſon, or by Procuration and Atturney, of what Prehemineence, State, Dignity, or Quality ſoever he be, from the Prince, (be it King or Queen) to the loweſt Perſon of *England*. And the Conſent of the Parliament is taken to be every man's Conſent.

The Judges in Parliament are, the the King or Queen's Majeſty, the Lords Temporal and Spiritual, the Commons, repreſented by the Knights and Burgeſſes of every Shire and Burrough Town. Theſe all, or the greater part of them, and that with the conſent of the Prince for the time being, muſt agree to the making of Laws.

The Officers in Parliament are the Speakers, two Clerks, the one for the Higher Houſe, the other for the Lower, and Committees.

The Speaker is he that doth commend and prefer the Bills exhibited into the Parliament, and is the Mouth of the Parliament. He is commonly appointed by the King or Queen, though accepted by the Aſſent of the Houſe.

The Clerks are the Keepers of the Parliament-Rolls and Records, and of the Statutes made, and have the cuſtody of the private Statutes not printed.

The Committees are ſuch as either the Lords in the higher Houſe, or Burgeſſes in the lower Houſe, do chooſe, to frame the Laws upon ſuch Bills as are agreed upon, and afterward to be ratified by the ſame Houſes.

The Form of holding the Parliament.

THE Prince ſendeth forth his Writs to every Duke, Marqueſs, Baron, and every other Lord Temporal or Spiritual, who hath Voice in the Parliament, to be at his great Counſel of Parliament ſuch a day; (the ſpace from the date of the Writ is commonly at the leaſt forty days.) He ſendeth alſo Writs to the Sheriffs of every Shire, to admoniſh the whole Shire to chooſe two Knights of the Parliament in the name of the Shire, to hear, and reaſon, and to give their Advice and Conſent in the name of the Shire; and to be preſent at that day: likewiſe to every City and Town, which of ancient time hath been wont to find Burgeſſes of the Par-

Parliament, ſo to make Election, that they might be preſent there at the firſt day of the Parliament. The Knights of the Shire be choſen by all the Gentlemen and Yeomen of the Shire, preſent at the day aſſign'd for the Election.: the voice of any abſent can be counted for none. Yeomen I call here (as before) that may diſpend at the leaſt forty ſhillings of yearly Rent of free Land of his own.

The Writ of Parliament for the Lords.

JAcobus Secundus, &c. *Chariſſimo conſanguineo ſuo Edwardo Comit' Oxon' ſalutem. Quia de adviſamento & aſſenſu conſilii noſtri pro quibuſdam arduis urgentibus negotiis nos, ſtatum & defenſionem Regni noſtri Angliæ & Eccleſiæ Anglicanæ concernent' quoddam Parliamentum noſtrum apud Civitatem noſtram Weſtmonaſterium decimonono die —— prox' futur' tener' ordinavimus, & ibid' vobiſcum ac cum Prelat', Magnatibus & Proceribus dict' Regni noſtri colloquium habere & tractare, vobis ſub fide & ligeanciis quibus nobis tenemini firmiter injungend' mandamus, quod conſiderat' dictorum negotiorum arduitate & periculis imminentibus, ceſſante excuſatione quacunque dict' die & loco perſonaliter interſitis nobiſ-*

cum ac cum Prelatis, magnatibus & Proceribus prædictis, ſuper dictis negotiis tractatur' veſtrumque conſilium impenſur' & hoc ſicut nos & honorem noſtrum ac ſalvationem & defenſionem Regni & Eccleſiæ prædictorum expeditionemque dictorum negotiorum diligitis nullatenus omittatis. Teſte meipſo apud Weſtm' decimo die —— anno Regni noſtri ——

The Writ of Parliament for the Knights.

REx Vic' N. &c. ſalut. quia de adviſamento & aſſenſu Conſilii noſtri pro quibuſdam arduis & urgentibus negotiis, nos, ſtatum, & defenſionem Regni noſtri Angliæ, & Eccleſiæ Anglicanæ, concernen' quoddam Parliamentum noſtrum apud Civitatem noſtram Weſtm' duodecimo die —— prox' futur' teneri ordinavimus, & ibid' cum Prelatis Magnatibus & Proceribus dicti Regni noſtri colloquium habere & tract: Tibi præcipimus firmiter injungentes quod facta proclamac' in prox' comitat' tuo poſt receptionem hujus brevis noſtri tenend' die & loco prædict' duos milit' gladiis cinct' magis idoneos & diſcretos comit' prædicti, & de qualib' civitate com' illius duos cives, & de quolibet Burgo duos Burgenſes de diſcretior'

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& magis ſufficientibus libere & indifferenter per illos qui proclam' hujuſmodi interfuer' juxta formam Statutorum inde edit' & provis' eligi, & nomina eorundum milit', civium & Burgenſium, ſic electorum in quibuſdam indentur' inter te & illos qui hujuſmodi election' interfuerit, inde conficiend' ſive hujuſmodi electi præſentes fuerint vel abſentes, inſeri: eoſque ad dict' diem & locum venire fac'. Ita quod iidem Milites plenam & ſufficientem poteſtatem pro ſe & communitate comit' prædicti ac dict' Cives & Burgenſes pro ſe et communitat' Civitatum et Burgorum prædictorum diviſim ab ipſis habeant, ad faciendum et conſentiendum his quæ tunc ibid' de communi conſilio dicti Reg' noſtri (favente Deo) contigerint ordinari ſuper negotiis ante dictis: Ita quod pro defectu poteſtatis hujuſmodi, ſeu propter improvidam electionem milit' Civium aut Burgenſium prædictorum, dicta negotia infecta non remaneant quovis modo. Nolumus autem quod tu nec aliquis alius vic' dicti Reg' noſtri aliqualiter ſit electus. Et electionem illam in pleno comitatu factam, diſtincte & aperte ſub ſigillo tuo & ſigillis eorum qui electioni illi interfuerint, nobis in Cancellar noſtram ad dict' diem & locum certifices indilate, remittens nobis alteram par-

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tem indenturarum prædictarum præsentibus consut' una cum hoc breve. Teste meipso apud Westmonasterium decimo octavo die ——— *Anno Regni nostri* ———

The Return of the Sheriff upon this Writ.

VIrtute istius brevis eligi feci duos milit' gladiis cinctos magis idoneos & discretos de comitat' meo, viz. W. F. & V. S. qui plenam & sufficientem potestatem pro se & communitate comitat' predicti habeant, ad faciendum & consentiendum iis quæ ad diem & locum infra contentos de communi consilio regni Angliæ ordinari contigerint: & prædicti W. F. & V. S. manucapti sunt per I. P. V. B. I. D. & R. N. ad essendum ad Parliamentum domini Regis apud Westmonast. ad diem infra contentum ad faciendum quod hoc breve in se exigit & requirit. *Li. Int.* 595.

Feci etiam præceptum virtute hujus brevis I. B. & A. S. Ballivis libertatis villæ de G. in comitat' meo, quod de eodem Burgo eligi facerent duos Burgenses de discretioribus & magis sufficient' quod sint ad Parliamentum dicti domini Regis

gis ad diem & locum infra cont', ad faciendum & consentiendum ut prædictum est, qui quidem Ballivi sic mihi respondent, qd' eligi fecerunt de prædicto Burgo de G. duos Burg. discretos & magis sufficient', ad essend' ad Parliamentum prædictum: viz. R. P. & G. I. ad faciendum & consentiendum ut supradictum est. Virtute etiam istius brevis ad proximum Comitat' meum post receptionem ejusdem, tentum apud V. tali die & anno in pleno comitatu illo proclamari feci omnia in isto brevi contenta, secundum formam & effectum hujus brevis, prout hoc breve in se exigit & requirit.

Residuum vero executionis istius brevis patet in quibusdam Indent' huic brevi consut. *Li. Intr'* 595.

The Indenture between the Sheriff and Burgesses.

HÆC Indentura facta tali die & anno inter G. A. armig' vic' comitatus N. ex una parte, & I. B. & I. D. &c. ex altera parte, testatur, quod secundum formam brevis huic Indent' consut', fact', proclam' in pleno comitatu meo tento apud G. tali die & an. prædicti I. B. I. D. &

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alii qui Procl' predict' in pleno comitat' predict' interfuerunt, ſecundum formam ſtatutorum in brevi predicto ſpecificatorum & ſecundum exigen' brevis illius eligerunt W. F. & V. S. milites, Gladiis cinctos pro comitatu predicto, ad eſſendum ad parliamentum in eodem brevi ſpecific' qui plenam & ſufficientem poteſtatem pro ſe & communitate comitatus predicti habeant, ad faciendum & conſentiendum prout breve illud in ſe exigit & requirit. In cujus rei teſtimonium partes predict' his indenturis ſigilla ſua alternatim apposuer'. Datum tali die & an. *Plo.* 120.

G. A. armig. vic'

Theſe meeting at one day, the two who have the moſt of their voices, be choſen Knights of the Shire for that Parliament: likewiſe by the plurality of the Voices of the Citizens and Burgeſſes, be the Burgeſſes elected. The firſt day of the Parliament, the Prince and all the Lords in their Robes of Parliament do meet in the higher Houſe, where, after Prayers made, they that be preſent are written, and they that be abſent, upon ſickneſs, or ſome other reaſonable cauſe (which the Prince will allow) do conſtitute

tute under their hand and Seal, ſome one of thoſe who be preſent, as their Proxy or Atturney, to give Voice for them, ſo that by preſence, or Atturney, and Proxy they be all there, all the Princes and Barons, and all Arch-Biſhops and Biſhops, and (when Abbots were) ſo many Abbots as had Voice in Parliament. The place, where the aſſembly is, is richly tapeſſed and hanged, a Princely and Royal Throne, as appertaineth to a King, ſet in the midſt of the higher place thereof. Next under the Prince ſitteth the Chancellour, who is the Voyce and Oratour of the Prince. On the one ſide of that Houſe or Chamber, ſitteth the Archbiſhops and Biſhops, each in his rank, on the other ſide the Dukes and Barons.

In the midſt thereof, upon Wool-ſacks, ſitteth the Judges of the Realm, the Maſter of the Rolls, and the Secretaries of Eſtate; But theſe that ſit on the Wool-ſacks have no Voyce in the Houſe, but only ſit there to anſwer their knowledge in the Law, when they be asked, if any doubt ariſe among the Lords. The Secretaries do anſwer of ſuch Letters or things paſſed in Council, whereof they have

have the cuſtody or knowledge; and this is called the Upper Houſe, whoſe Conſent and Diſſent is given by each man ſeverally, and by himſelf; firſt, for himſelf, and then ſeverally, for ſo many as he hath Letters and Proxies, when it cometh to the queſtion, ſaying only, Content, or not content, without farther reaſoning or replying. In the mean time, the Knights of the Shires, and Burgeſſes of Parliament (for ſo they are called that have Voice in Parliament, and are choſen (as I have ſaid before) to the number of about five hundred and ten) are called by ſuch as it pleaſeth the Prince to appoint, into another great Houſe or Chamber, by name, to which they anſwer; and declaring for what Town or Shire they anſwer: then they are willed to chooſe an able and diſcreet man, to be as it were the Mouth of them all, and to ſpeak for, and in the name of them, and to preſent him ſo choſen by them to the Prince: which done, they coming all with him to a Barr, which is at the nether end of the upper Houſe, there he firſt praiſeth the Prince, then maketh his excuſe of Inability, and prayeth the Prince that he would command the Commons to chooſe another.

ther. The Chancellour, in the Prince's name, doth ſo much declare him able, as he did declare himſelf unable, and thanketh the Commons for chuſing ſo Wiſe, Diſcreet, and Eloquent a man, and willeth them to go and conſult of Laws for the Common-wealth. Then the Speaker maketh certain Requeſts to the Prince in the Commons Name, Firſt, that his Majeſty would be content that they may uſe and enjoy all their Liberties and Priviledges that the Commons Houſe was wont to enjoy.

Secondly, That they may frankly and freely ſay their minds, in diſputing of ſuch Matters as may come in queſtion, and that without offence to His Majeſty.

Thirdly, If any ſhould chance, of that Lower Houſe, to offend, or not to do or ſay as ſhould become him, or if any ſhould offend any of them, being called to that his Highneſs Court, that they themſelves might (according to the ancient cuſtom) have the puniſhment of them.

Fourthly, That if there come any doubt, whereupon they ſhall deſire to have the Advice of, or Conference with his Majeſty, or with any of the Lords, they might do it; All which he promiſeth

ſeth in the Commons names, that they ſhall not abuſe, but have ſuch regard as moſt faithful, true, and loving Subjects ought to have to their Prince.

The Chancellour anſwereth in the Prince's name, as appertaineth. And this is all that is done for one day, and ſometime for two. Beſides the Chancellour, there is one in the upper Houſe, who is called Clerk of the Parliament, who readeth the Bills. For all that cometh in conſultation either in the upper Houſe or in the nether Houſe, is put in writing firſt in Paper, which being once read, he that will, riſeth up and ſpeaketh for it or againſt it: and ſo one after another, ſo long as they ſhall think good. That done, they go to another, and ſo another Bill. After it hath been once or twice read, and doth appear that it is ſomewhat liked as reaſonable, with ſuch amendment in Words, and peradventure ſome Sentences, as by diſputation ſeemeth to be amended: in the upper Houſe the Chancellour asketh, if they will have it ingroſs'd, that is to ſay, put into Parchment: which done, and read the third time, and that eft-ſoons, if any be diſpoſed to object or diſpute again among them, the Chancellour

our asketh, if they will go to the queſtion? and if they agree to go to the queſtion, then he ſaith, Here is ſuch a Law or Act concerning ſuch a matter, which hath been thrice read here in this Houſe, are ye content that it be enacted or no? If the Not-contents be moſt, then the Bill is daſhed, that is to ſay, the Law is annihilated, and goeth no farther. If the Contents be the moſt, then the Clerk writeth underneath; *Soit baile aux commons.*

And ſo when they ſee time, they ſend ſuch Bills as they have approved, by two or three of thoſe which do ſit on the Wool-ſacks to the Commons: who, asking Licence, and coming into the Houſe, with due reverence ſaith to the Speaker: Maſter Speaker, my Lords of the upper Houſe have paſſed among them, and think good, that there ſhould be enacted by Parliament ſuch an Act, and ſuch an Act, and ſo readeth the Titles of that Act or Acts. They pray you to conſider of them, and ſhew them your advice; which done, they go their way. They being gon, and the door again ſhut, the Speaker rehearſeth to the Houſe what they ſaid. And if they be not buſie diſputing

puting at that time another Bill, he asketh them straightway if they will have that Bill, or (if there be more) one of them.

In like manner in the lower House, the Speaker, sitting in a Seat, or Chair for that purpose, somewhat higher, that he may see and be seen of them all, hath before him, in a lower Seat, his Clerk who readeth such Bills as be first propounded in the lower House, or be sent down from the Lords. For in that point each House hath equal Authority, to propound what they think meet, either for the abrogating of some Law made before, or for making of a new. All Bills be thrice in three divers days read and disputed upon, before they come to the question. In the disputing is a marvellous good order used in the lower House. He that standeth up bare-headed, is to be understood, that he will speak to the Bill. If more stand up, who that is first judged to arise, is first heard; though the one do praise the Law, the other dissuade it, yet there is no passionate reasonings. For every man speaketh as to the Speaker, not as one to another, for that is against the Order of the House. It

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ask- is alſo taken againſt the Order, to name hav- him whom ye do confute, but by cir- ne o- umlocution, as he that ſpeaketh with the Bill, or he that ſpake againſt the Bill, , th- and gave this and this reaſon. And ſo : fo- with perpetual Oration, not with intrench- t h- ing diſcourſe, he goeth through till he hath have made an end. He that once hath erk- ſpoken in a Bill, though he be confuted pro- ſtraight, that day may not reply, no, ſen- though he would change his Opinion. oin- So that to one Bill in one day, one may , to not in that Houſe ſpeak twice, or elſe one her or two with croſs diſputation would ſpend ade all the time. The next day he may, but All then alſo but once.

ead No reviling or nipping words muſt be to uſed. For then all the Houſe will cry, ar- it is againſt the Order: and if any ſpeak ver unreverently or ſeditiouſly againſt the d- Prince, or the Privy-Council, I have ill ſeen them not only interrupted, but it ho hath been moved after to the Houſe, and d; they have ſent them to the Tower. So ne that in ſuch a multitude, and in ſuch di- te verſity of Minds and Opinions, there is as the greateſt Modeſty and Temperance or of Speech that can be uſed. Nevertheleſs, It with very mild and gentle Terms, they s make

make their reaſons as violent, and as ve-
hement the one againſt the other as they
may ordinarily, except it be for urgent
cauſes, and haſting of time. At the after-
noon they keep no Parliament. The
Speaker hath no voice in the Houſe, nor
they will not ſuffer him to ſpeak in any
Bill to move or diſſwade it. But when any
Bill is read, the Speakers Office is, a-
briefly and as plainly as he may, to de-
clare the Effect thereof to the Houſe. If
the Commons do aſſent to ſuch Bills as
be ſent to them firſt agreed upon from
the Lords, thus ſubſcribed, *Les Communs
ont aſſentus*, ſo if the Lords do agree to
ſuch Bills as be firſt agreed upon by the
Commons, they ſend them down to the
Speaker thus ſubſcribed, *Les Seigneurs
ont aſſentus*. If they cannot agree, the two
Houſes (for every Bill from whenceſo-
ever it doth come, is thrice read in each
of the Houſes) if it be underſtood that
there is any ſticking, ſometimes the Lords
to the Commons, ſometimes the Com-
mons to the Lords, do require that cer-
tain of each houſe may meet together,
and ſo each part to be informed of others
meaning, and this is always granted.
After which meeting, for the moſt part,

not

not always, either part agrees to others Bills.

In the upper Houſe they give their aſſent and diſſent, each man ſeverally, and by himſelf, firſt, for himſelf, and then for ſo many as he hath Proxy. When the Chancellour hath demanded of them, whether they will go to the queſtion, after the Bill hath been thrice read, they ſaying only, Content or not content, without further reaſoning or replying: and as the greater number doth agree, ſo it is agreed on, or daſhed.

In the lower Houſe, none of them that is elected, either Knight or Burgeſs, can give his Voice to another, nor his conſent or diſſent by Proxy. The major part of them that be preſent only maketh the conſent or diſſent. After the Bill hath been twice read, and then ingroſſed, and eft-ſoons read and diſputed on enough as is thought, the Speaker asketh, if they will go to the queſtion? and if they agree, he holdeth the Bill up in his hand and ſaith: As many as will have this Bill go forward, which is concerning ſuch a matter, ſay yea. Then they which allow the Bill, cry Yea, and as many as will not, ſay No; as the cry of the yea or no is bigger,

bigger, ſo the Bill is allowed or daſhed. If it be a doubt which cry is bigger, they divide the Houſe, the Speaker ſaying, as many as do allow the Bill go down with the Bill, and as many as do not, ſit ſtill. So they divide themſelves, and being ſo divided they are numbred who made the major part, and ſo the Bill doth paſs. It chanceth ſometime that ſome part of the Bill is allowed, ſome other part hath much controverſie and doubt made of it: and it is thought if it were amended it would go forward. Then they chooſe certain *Committees* of them who have ſpoken for the Bill and againſt it, to amend it, and bring it again ſo amended, as they amongſt them ſhall think meet: and this is before it is ingroſſed, yea, and ſometime after. But the agreement of theſe *Committees* is no prejudice to the Houſe. For at the laſt queſtion they will either accept it or daſh it, as it ſhall ſeem good, notwithſtanding that whatſoever the *Committees* have done.

Thus no Bill is an Act of Parliament, Ordinance, or Edict of Law, untill both the Houſes ſeverally have agreed unto it after the order aforeſaid; no nor then neither. But the laſt day of that Parliament

ment or Seſſion, the Prince cometh in Perſon in his Parliament Robes, and ſitteth in his ſtate: all the upper Houſe ſitteth about the Prince in their ſtates and order, in their Robes. The Speaker, with all the Common Houſe, cometh to the Bar, and there, after thankſgiving firſt in the Lords Name by the Chancellour, *&c.* and in the Commons Name by the Speaker to the Prince, for that he hath ſo great care of the good Government of his People, and for calling them together to adviſe of ſuch things as ſhould be for the Reformation, Eſtabliſhing, and Ornament of the Common-wealth: the Chancellour, in the Prince's Name, giveth thanks to the Lords and Commons for their pains and travels taken, which, he ſaith, the Prince will remember and recompence when time and occaſion ſhall ſerve, and that he for his part is ready to declare his Pleaſure concerning their Proceedings, whereby the ſame may have perfect Life and Accompliſhment by his Princely Authority, and ſo have the whole Conſent of the Realm. Then one reads the Titles of every Act which hath paſſed at that Seſſion, but only in this faſhion: An Act concerning ſuch a

thing, &c. It is marked there what the Prince doth allow, and to ſuch he ſaith, *Le Roy*, or *la Royne le veult*. And thoſe be taken now as perfect Laws and Ordinances of the Realm of *England*, and none other, and, as ſoon as may be, put in print, except it be ſome private Caſe, or Law, made for the benefit or prejudice of ſome private man, which the *Romans* were wont to call *Privilegia*. Theſe be only exemplified under the Seal of the Parliament, and for the moſt part not printed. To thoſe which the Prince liketh not, he anſwereth, *Le Roy*, or *la Rayne ſadviſera*, and thoſe be accounted utterly daſhed, and of none effect.

This is the order and form of the higheſt and moſt authentical Court of *England*, by vertue whereof all thoſe things be eſtabliſhed whereof I ſpake before, and no other means accounted available to make any new forfeiture of Life, Member, or Lands of any *Engliſh* man, where there was no Law ordained for it before.

Note, Where the Parliament Writ ſpeaks *de qualibet Civitate Comitatus illius*, this is intended, where the City is not a County

County in it ſelf, *&c.* For if it be a County of it ſelf, as *London*, *Norwich*, and ſuch like, then the Writ ſhall be directed to them, *&c.* As it is to Sheriffs of other Counties.

At the next County meeting to be holden after the delivery of the Parliament Writ to the Sheriff, Proclamation ſhall be made in the full County, of the day, and place of the Parliament, and every one ſhall attend for the Election of the Knights for the ſame County for the Parliament, which Knights ought to be reſident within the ſame County where they are choſen; the day of the date of the Writ of Summons to the Parliament. And they ſhall be choſen by People dwelling and reſident within the ſame County, whereof every one of them ſhall have Land, or Tenement, to the value of forty Shillings, above all charges, within the ſame County; And ſuch as have the greateſt number of Voices of ſuch Chuſers, ſhall be returned by the Sheriffs, Knights for the ſame County. 7 *H.* 4. *c.* 15. 1 *H.* *c.* 1. 8 *H.* 6. *c.* 7. 10 *H.* 6. *c.* 2.

The Sheriff may examine every Chuſer upon the Evangeliſts, how much he

may expend by the year, if he be in doubt of the value, 8 *H.* 6 *c.* 7.

The ſaid Election ſhall be made in full County, between the Hour of 8, and the Hour of 9 in the Forenoon. 13 *H.* 6. *c.* 15.

The Knights ſhall be return'd into *Chancery*, by Indenture ſealed betwixt the Sheriff and the Chooſers of Knights for the Parliament. 8 *H* 6. *c.* 7. 7 *H.* 4. *c.* 1. 23 *H.* 6. *c.* 15. As it appears by the Writ aboveſaid.

Every Sheriff that makes not a good, and true Return of ſuch Election of Knights to come to Parliament, according to the Statutes of *H.* 5. and *H.* 6. ſhall forfeit 100 *l.* to the King, and 100 *l.* to the Knight ſo choſen, that ſhall commence his Action within three Months after the Parliament begun, and proceed in the ſame Suit effectually without Fraud. And if he ſo do not, another that will ſue ſhall have the ſaid Action, for the ſaid 100 *l.* with coſts, as the Knight ſhould have had, 23 *H.* 6. *c.* 15. A Sheriff ſhall not be choſen for Knight, nor Burgeſs of Parliament, *L. Int.* 411. as appears alſo by the Writ it ſelf directed to the Sheriff.

In every Writ of Parliament directed to the Sheriff, this Clauſe muſt be put in.

in. *Electionem tuam in pleno comitatu tuo factam distincte et aperte sub sigillo tuo et sigil' eorum qui electioni illi interfuerunt nobis in Cancellariam nostram ad diem et locum in breve content' certifices indilate,* 7 *H.* 4. *c.* 15.

The Election must be by the greater number of Free-holders; And, in an Action of Debt for him that is chosen Knight of the County, and not return'd, it sufficeth to declare, that he was chosen by the major part of the Free-holders, *&c. Plowd. Com.* 118. *Dyer* 113.

Note, If a man keeps a Household in one County, and remains in service with another Family in another County, yet he may be at chusing of Knights of the Shire, where he keeps a Family; for he shall be said in Law to be resident in either of the said Counties: as in Debt, he may be impleaded where he keeps his House-hold, *ut supra*, and be resident in the other County by reason of the Arrest. *Vide* 19 *H.* 6. *fol.* 1.

And the Statute of 10 *H.* 6. *c.* 2. is, that Knights of the Shire shall be chosen by Free-holders that are resident within the same County.

The Sheriff, after the receipt of the Writ, *&c.* as aforesaid, shall deliver without fraud a sufficient Precept under his Seal to every Mayor, and Bayliff (either Bayliffs, or Bayliff, where there is no Mayor of the Cities and Burroughs within his County) reciting in it the Precept of the Parliament Writ; commanding them by the said Precept, if it be a City, to choose Citizens for the same City by Citizens, *&c.* If it be a *Borough*, then Burgesses by Burgesses thereof, to come to the Parliament; and that the Mayor, and Bayliffs (or Bayliffs or Bayliff, where there is no Mayor) shall duly return the said Precept to the Sheriff, by Indenture betwixt the Sheriff and those of the Election; and the names of the Citizens, and Burgesses by them so chosen. 23 *H. 6. c.* 15.

The Sheriff shall make a good return of such Writ, and of every return by the Mayors, and Bayliffs (or Bayliffs or Bayliff, where there is no Mayor) to him made. And if the Sheriff does contrary to this Statue, or any other Statute for chooſing of Knights, Citizens, and Burgesses to come to Parliament, he shall incur the Penalty of 100 *l.* to the King, and shall

ſhall be impriſoned for one year without Bail or Mainpriſe; and the Knights for the County, returned contrary to the ſaid Ordinances, ſhall loſe their Wages, by 8 *H. 6. c.* 7. and the Sheriff ſhall forfeit 100 *l.* to every Knight, Citizen, or Burgeſs in his County, choſen to come to Parliament, not duly returned; or to any other, that in their default will ſue for it by action of Debt, with coſts expended in it, in which the Defendant ſhall not wage his Law, nor have any Eſſoin. 23 *H. 6. c.* 15.

If the Mayor, and Bailiffs, or Bailiffs or Bailiff, where no Mayor is, ſhall return other than thoſe which be choſen by the Citizens, and Burgeſſes of the Cities or Boroughs where ſuch Elections be; ſhall incur, and forfeit to the King forty pound, and moreover, ſhall forfeit to every Perſon hereafter choſen, Citizen, or Burgeſs, to come to Parliament, and not by the ſame Mayor, and Bailiffs, or Bailiffs or Bayliff, where no Mayor is, returned; or to any other Perſon, which in default of ſuch Citizen or Burgeſs ſo choſen will ſue for it, ſhall have his Action of Debt for forty pound, with his Coſts in this caſe expended; in

which the Defendant ſhall not wage his Law, nor have any Eſſoin. *Ibid.*

Every Knight, Citizen, and Burgeſs, choſen and not return'd, ſhall bring his Action of Debt within three Months after the ſame Parliament commenced, to proceed in the ſame Suit effectually without Fraud; And if he ſo do not, another that will ſue ſhall have the ſame Action for the ſaid Forfeitures, and Coſts in ſuch caſe expended, wherein the Defendant ſhall not wage his Law, nor be eſſoined: *Ibid.*

If any Knight, Citizen, or Burgeſs, that ſhall be returned by the Sheriff to come to Parliament, after ſuch return, be put out by any Perſon, and another put in the Place of him which is out, if he take upon him to be Knight, Citizen, or Burgeſs, ſhall forfeit to the King an hundred pound, and ſo much to the Knight, Citizen or Burgeſs, ſo return'd by the Sheriff; and after, as aforeſaid, put out. And that Knight, Citizen, or Burgeſs, which is ſo put out, ſhall have an Action of Debt againſt him ſo put in his place, his Executors, or Adminiſtrators; provided always that he ſhall begin his Suit within three Months after the Parliament

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commenced. And if he do not, then he that will ſue, ſhall have an action of Debt of the ſame one hundred pound againſt him which is put in the place of him that is ſo put out, after ſuch return, *&c.* And that no Defendant in ſuch Action ſhall wage his Law, nor be eſſoin'd; ſo that the Knights of the Shire for the Parliament hereafter to be choſen, ſhall be Knights, or otherwiſe ſuch eminent Eſquires, or Gentlemen of the ſame Counties, as ſhall be able to be Knights, and no man to be ſuch Knight, which ſtandeth in the degree of a Yeoman, and under, 23 *H. 6. c.* 15.

All Perſons, and Communalties, which ſhall have the Summons of the Parliament, ſhall come to the Parliament in the manner as they are bounden to do, and have been accuſtomed of ancient times. And he that does not come (except he may reaſonably, and honeſtly excuſe himſelf) ſhall be amerced or otherwiſe puniſhed, according as of old times hath beeen uſed. 5 *R.* 2. *Stat.* 2. *c.* 4.

No Baron, Knight, Citizen or Burgeſs, which ſhall be elected to come to Parliament, ſhall depart from it till the Parliament be fully ended, or prorogued,

except he has Licenſe of the Speaker, and Commons in ſuch Parliament aſſembled: which Licenſe ſhall be entred in the Book of the Clerk of the Parliament; appointed for the Commons Houſe, upon pain to loſe their Wages, and all Counties, Cities, and Boroughs ſhall be diſcharg'd of the ſaid Wages. *6 H.* 8. *c.* 16. *Vide Stamford*, 153. The Biſhop of *Wincheſter* was arreſted in the Kings Bench for that he coming to Parliament, departed without Licenſe. *Coron. F.* 161. 3 *Ed.* 2.

The Lands, which were wont to be contributory to the Expences of Knights of Parliament, ſhall be liable to thoſe charges, notwithſtanding the purchaſe of them by any Lord, or any other Perſon whatſoever. 12 *R.* 2. *c.* 12.

The Sheriff, after the Receipt of the Writ for levying the Wages of the Knights of the Parliament, at the next County Court, ſhall make Proclamation that the Coroners, and every chief Conſtable of the ſame County, and the Bayliffs of every Hundred or Wapentake of the ſame County, and every other, which will be at the aſſeſſing of the Wages of the Knights of the Shires, ſhall be at the next County to aſſeſs the ſaid Wages; and

and that the Sheriff, under Sheriff, Coroner, or Bayliff, for the time being, be there in their proper Perſon, upon pain of forfeiture to the King forty Shillings, of every of them that maketh default. 23 *H. 6. c.* 11.

At which time the Sheriff, or under-Sheriff, in the preſence of them that ſhall come to the ſame, and of the Sutors of the ſame County, then being there in full County, well and duly ſhall aſſeſs every Hundred to that aſſeſſable, by it ſelf, to pay a certain Sum for the Wages of the Knights of the Shire; ſo that the whole Sum of all the Hundreds do not exceed the Sum which ſhall be due to the ſaid Knights. And after that, in the ſame County, they ſhall aſſeſs well and lawfully every Village within the ſame Hundreds, which ſhould be there aſſeſſable to a certain Sum for the payment of the ſaid Wages; ſo that the whole Sum of all the Towns within any of the ſaid Hundreds, do not exceed the Sum aſſeſſed upon the Hundred of which they be. *Ibidem.*

And that the ſaid Sheriff, under-Sheriff, Bayliffs, nor any other Officer, for the Cauſe aforeſaid, ſhall levy more

Money

Money of any Village than that whereunto they were aſſeſſed. And if any do aſſeſs any Hundred, or Village, otherwiſe than is aforeſaid, he ſhall forfeit for every default to the King, twenty pound, and to any man which will ſue in this caſe, ten pound. *Ibidem.*

And that the Sheriff well and duly ſhall levy the Money ſo aſſeſſed upon the aforeſaid Villages, as ſpeedily as they well may after the ſaid aſſeſſing; and the ſame ſhall deliver to the ſaid Knights, according to the Writs thereof, to be made upon the ſaid Penalties. *Ibidem.*

And he that will ſue in this Caſe, ſhall be thereunto admitted, and ſhall have a *Scire Facias* againſt him that offendeth contrary to this Ordinance, and ſhall recover ten pounds to their own uſe, over the ſaid twenty pound, with their treble Damages for the Coſts of their Suits. *Ibidem.*

And that the Juſtices of the Kings Bench, and of the Common Place, Juſtices of Aſſizes, and Gaol delivery, and Juſtices of the Peace, ſhall have Power to enquire, hear, and determine, of all the ſaid Defaults, as well by Inquiry at the Kings Suit, as by Action at the Suit of the Parties. 23 *H. 6. c.* 11.

And that all ſuch Expences of Knights ſhall not be levied of any other Villages, Seigniories, or Places, but of ſuch whereof it hath been before this Time. And that in every ſuch Writ to be made to levy the Wages of the Knights, This Act ſhall be comprehended in the ſame. 23 *H. 6. c.* 11. *Vide Regiſter* 261. That Villains ſhall not be contributory to the Wages of Knights of the Shire for the Parliament, *Br.* 96. And Free-holders and Tenants at Will in ancient Demeſn, and the Lords ſhall alſo be acquitted of ſuch Expences for Knights of the Parliament. *Ancient Demeſn. Br.* 431. *F. Natura brevium*, 14.

That to every Parliament two Knights ſhall be choſen for the County of *Monmouth*, and one Burgeſs for the Borough of *Monmouth*, in like manner, form, and order, as Knights, and Burgeſſes of the Parliament be elected in every County of *England*; and that the ſame Knights and Burgeſſes ſhall have like Dignity, Preheminence, and Priviledge, and ſhall be allowed ſuch Fees, as other Knights and Burgeſſes of Parliament have been allowed; And ſuch Fees to be levied, received, and paid in ſuch manner, form, and

and order, as ſuch Fees be gathered, received, and paid in other Shires of the Realm of *England*. 27 *H*. 8. *c*. 26.

And the Burgeſſes Fees to be levied as well within the Borough of *Monmouth*, as within all other ancient Boroughs within the ſaid Shire of *Monmouth*: And that a Knight ſhall be choſen to the ſame Parliament for every of the Shires of *Brecnock*, *Radnor*, *Montgomery*, and *Denbigh*, and for every other Shire within the Dominion of *Wales*; and for every Borough being a Shire Town, within the Country and Dominion of *Wales* (except the Shire-Town of the County of *Mereoneth*) one Burgeſs; And the Election to be in manner, form, and order, as Knights, and Burgeſſes of the Parliament be elected in other Shires of this Realm. *Ibid*.

And that the Knight, and Burgeſs, and every of them, ſhall have like Dignity, Preheminence, and Priviledge, and ſhall be allowed ſuch Fees as other Knights of the Parliament are allowed; And the Knights Fees to be levied and gathered of the Commons of the Shire that they be elected in; and the Fees of Burgeſſes to be levied, and gathered as well of the Boroughs, and Shire-Towns, as they be

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Burgeſſes of, as of all other ancient Boroughs within the ſame Shires. 27 *H.* 8. *c.* 26.

The Sheriffs of every of the 12 Shires in *Wales*, and in the County of *Monmouth*, ſhall have power to levy, gather, or to be levied and gathered the ſaid Knights Fees and Wages of the Inhabitants of the 12 Shires, and of the ſaid County of *Monmouth*, which ought to pay the ſame; and the ſame ſo gathered, ſhall pay to the Knights within two Months after the delivery of the Kings Writ for payment of the ſaid Wages or Fees; otherwiſe the Sheriff ſhall loſe, and forfeit twenty pounds: one Moiety to the King, and the other Moiety to him that will ſue for the ſame, in any Court of Record, by Information, Bill, or Plaint, or otherwiſe, before any of the Kings Officers, wherein no Eſſoign, Protection, or Wager of Law ſhall be admitted. 35 *H.* 8. *c.* 11.

And if it ſhall happen any Sheriff in any of the twelve Shires, and County of *Monmouth*, to make default of payment of the ſaid Wages, or Fees, by a longer term than two Months; then every ſuch Sheriff ſhall forfeit for every Month that he

he ſhall make default twenty pounds, to be forfeited and levied in manner and form as is aforeſaid. *Ibidem.*

And that every Mayor, and Bayliff, and other chief Officers of Cities, Boroughs, and Towns in every of the ſaid twelve Shires, and in the County of *Monmouth*, within like term and ſpace of two Months after the receipt of the Kings Writ *De ſolutione fædi. burgent. Parliament.* as is before mentioned, for gathering of the Knights Fees, ſhall levy, gather, and pay the Wages and Fees to their Burgeſſes, in like manner and form as is aforeſaid, and in, and under like pain and forfeitures, as before mentioned, to be levied of the Goods and Chattels of every ſuch Mayor, Bayliff, or other head Officers to whom the Kings ſaid Writ ſhall be directed for the levying of ſuch Fees, making default of payment of the ſaid Fees, and Wages to the Burgeſſes, in manner and form as is aforeſaid; And the Burgeſſes of Cities, Boroughs, and Towns, within the twelve Shires of *Wales*, and the County of *Monmouth*, which are or ſhall be contributory to the payment of the Burgeſſes Wages of the ſaid Shire-Towns, ſhall be lawfully

ly admoniſhed, by Proclamation, or otherwiſe, by the Mayors, Bayliffs, or other head Officers of the ſaid Towns, or by one of them, to come, and give their Elections for the electing of the ſaid Burgeſſes, at ſuch time and place, lawful and reaſonable, which ſhall for that intent be aſſigned; in which Elections the Burgeſſes ſhall have like Voice and Authority, to elect, and name the Burgeſſes of every the ſaid Shire-Towns, as the Burgeſſes of the ſaid Shire-Towns have or uſe. *Ibidem.*

Two Juſtices of Peace in every of the ſaid Shires in *Wales*, and in the ſaid County of *Monmouth*, have Power and Authority, indifferently, to lot, and tax every City, Borough, and Town, within the Shires in *Wales*, wherein they do inhabit; and in the ſaid County of *Monmouth*, for the Portions and Rates that every the ſaid Cities, and Boroughs ſhall bear and pay towards the ſaid Burgeſſes, within the ſaid Shire-Towns of every of the ſaid Shires in *Wales*, and the County of *Monmouth*, which Rates ſo rated, and taxed in groſs by the ſaid two Juſtices of Peace, as is aforeſaid, ſhall be again rated, and taxed on the Inhabitants of every

ry the ſaid Cities and Boroughs, by 4 or 6 diſcreet and ſubſtantial Burgeſſes of every the ſaid Cities and Boroughs in *Wales*, thereunto named and aſſigned by the Mayor, Bayliffs, or other Head Officers of them for the time being; and thereupon the Mayors, Bayliffs, and other Head Officers of every ſuch City, Borough, or Town, to collect the ſame, and thereof to make payment in manner and form as aforeſaid, to the Burgeſſes of the Parliament, within like time, and upon the like pains and forfeitures, as is above mentioned. 35 *H.* 8 *c.* 11.

The Kings Aſſent, by his Letters Patents under the great Seal of *England*, and ſigned with his Hand, and notified in his abſence to the Lords of Parliament, and Commons aſſembled together in the higher Houſe, is, and ever was of as good ſtrength and force, as if the King's Perſon had been there perſonally preſent, and had aſſented openly and publickly to the ſame; and ſuch Royal Aſſent, notified as aforeſaid, ſhall be taken good, and ſo effectual to all Intents, without ambiguity or doubt, any Cuſtom or Uſage to the contrary notwithſtanding, 33 *H.* 8. *cap.* 21.

Every

Every Knight choſen for the Parliament, and Sheriff that makes Election for them, ſhall have their Traverſe to ſuch Inqueſts and Offices, before any Juſtices of Aſſize hereafter to be taken, and they ſhall not be endammaged unto the King for any ſuch Inqueſt taken, untill they be duly convicted according to the form of the Law. *6 H. 6. cap.* 4.

All the Clergy hereafter to be called to the Convocation by the King's Writ, and their Servants and Familiars, ſhall for ever hereafter fully uſe, and enjoy ſuch Liberty, or Defence in coming, tarrying, and returning, as the great Men, and Commonalty of the Realm of *England*, called, or to be called to the King's Parliament, do, or were wont to enjoy. 8 *H. 6. cap.*

No Appeal ſhall be purſued in Parliament. 1 *H.* 4. *c.* 14.

The Burgeſſes of Parliament ſhall not be Collectors of a *Fifteen*, except they can diſpend in the County, out of the City or Borough of which they are Burgeſſes, in Lands or Tenements, to the value of an hundred Shillings by the Year, over the Charges and Repriſes. 18 *H. 6. cap.* 5.

Knights,

Knights, Citizens, Burgeſſes and Barons of Parliament, muſt take the Oath of *Supremacy*, before they enter into the Parliament Houſe; but Lords of Parliament ſhall not be compelled to take the ſaid Oath. 5 *Eliz. c.* 1.

Vide, How Lords of Parliament ſhall be placed in the Parliament, and other Aſſemblies and Conferences of Council. 31 *H.* 8. *cap.* 10.

Lords of Parliament, for matters of Religion, ſhall be tried by their Peers. 1 *Eliz. c.* 2.

Perſons attainted by Parliament, and after become Lunatick, ſhall be executed notwithſtanding, 33 *H.* 8. *c.* 20. Quere, if this be not repeal'd by 1 & 2 *Ph.* & *Mary*, *c.* 10. *Staunford*, 153.

Women that have Joyntures aſſigned after marriage, may wave them, and take their Dowry at Common Law, if the Joynture be not aſſigned by Parliament, 27 *H.* 8. *c.* 10.

The County *Palatine* of *Cheſter* ſhall have two Knights for the County *Palatine*, and likewiſe two Citizens to be Burgeſſes for the City of *Cheſter*, to be choſen by Proceſs, to be awarded by the Chancellor of *England*, unto the Chamberlain of

of *Cheſter*, or his Lieutenant for the time being. And ſo like proceſs to be made by the Chamberlain, or his Lieutenant, or Deputy, to the Sheriff of the ſaid County of *Cheſter*: And the ſame Election to be made under like manner, and formed to all intents, conſtructions, and purpoſes, as is uſed within the County *Palatine* of *Lancaſter*, or any other County and City within *England*; which Knights and Burgeſſes, and every of them ſo elected, ſhall be returned by the ſaid Sheriff into the Chancery of *England*, upon the like pains as it is ordained that the Sheriff of any other County within this Realm ſhould make their Return in caſe like. Which ſaid Knights and Burgeſſes, and every of them, ſo choſen, and returned, ſhall be Knights and Burgeſſes of the Court of Parliament, and have like Voice and Authority to all intents and purpoſes, as any other the Knights and Burgeſſes of the ſaid Court of Parliament have, uſe, and enjoy: And alſo may have, and take all and every ſuch Liberties, Advantages, Dignities, Privileges, Wages, and Commodities, concerning the ſaid Court of Parliament, to all Intents, Conſtructions, and Purpoſes, as any other the Knights and

and Burgeſſes of the ſaid Court, may or ought to take and enjoy, 34 *H.* 8. *c.* 13.

If any Aſſault or Affray be made to any Lord Spiritual or Temporal, Knight of the Shire, Citizen or Burgeſs, coming to the Parliament, or to other Council of the King, by his Commandment, and there being and attending at the Parliament or Council, that then Proclamation ſhall be made, in the moſt open Places in the Town, by three ſeveral days, where the Aſſault or Affray ſhall be made, that the Party that made ſuch Affray or Aſſauſt, yield himſelf before the King in his Bench, within a quarter of a year after the Proclamation made, if it be in the time of the Term, or otherwiſe at the next day in the time of the Term following the ſaid quarter, and if he do not, that he be attainted of the ſame deed, and pay to the Party grieved his double damages, to be taxed by the diſcretion of the Juſtices of the ſame Bench, or by Inqueſt, if it be needful, and make Fine and Ranſom at the King's will; and if he come, and be found Guilty by Inqueſt, by examination or otherwiſe, of ſuch Affray or Aſſault, then he ſhall pay to the Party ſo grieved his double damages, found by the In-

Inqueſt, or to be taxed by the diſcretion of the ſaid Juſtices, and make fine and ranſome at the King's will, as above is ſaid, 11 *H.* 6. *c.* 11.

Vide, the Act made for the aſſurance of Lands to *John Hind*, Serjeant at Law, and his Heirs, paying annually ten pounds towards the maintenance and wages of Knights of Parliament, for the County of *Cambridge* for ever, 34 & 35 *H.* 8. *c.* 24.

Note, by *Kirby*, Clerk of the Rolls of Parliament, that the cuſtom or uſage of Parliament is, that if a Bill come firſt to the Commons, and they paſs it, then the Uſe is to indorſe it in ſuch manner, *Soit baile a Seigniores*, and upon that, if neither the Lords, nor the King do alter it, then it ſhall be delivered to the Clerk of the Parliament to be enrolled, without indorſing it, and if it be a general Bill, it ſhall be inrolled, but not if it be a private Bill, but it ſhall be put on the File, and that is ſufficient; but if the party will ſue to have it inroll'd, then it may be inroll'd for ſureties ſake, 33 *H.* 6. 17.

If the Lords will alter a Bill, in that which may ſtand with the Bill, they may ſo do, without remanding to the Commons; as if the Commons grant

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Poundage for four years, and the Lords will grant it but for two years, this Bill ſhall not be carried back again to the Commons. But if the Commons grant it but for two years, and the Lords will grant for four years, there the Bill ſhall be delivered to the Commons; and in this caſe the Lords ought to make a Schedule of their Intention, or indorſe the Bill in this manner; *The Lords have aſſented for the term of four years.* And when the Commons have the Bill again, and they will not aſſent to it, this can be no Act. But if the Commons will aſſent, then they indorſe their Anſwer upon the Margent of the Bill beneath in ſuch form; *The Commons have aſſented* to the Schedule of the Lords annex'd to the ſame Bill, and then it is delivered to the Clerk of Parliament, *ut ſupra.* 33 *H.* 6. 17.

If a Bill be firſt delivered to the Lords, and they paſs it, they uſe not to make any Indorſement, but ſend the Bill to the Commons, and if it paſs them, the uſe is to indorſe it thus, *Les Commons ſont Aſſentants*, and this proves that it paſſed the Lords before: And therefore if *J. S.* be attainted of Treſpaſs by Parliament, and the Commons aſſent, that if he does

does not come in by ſuch a day, he ſhall forfeit ſuch a Sum, and the Lords give him a longer day, and the Bill is not ſent back to the Commons again, this is no *Act*, for that the Bill was not delivered back to the Commons after the inlargement of the day given by the Lords. 33 *H.6.* 17.

Every Bill that paſſes the Parliament, ſhall have relation to the firſt day of Parliament, although it come in at the end of the Parliament, and it is not the cuſtom to make any mention what day the Bill was delivered in to the Parliament; *per Faukes* Clerk of the Parliament. 33 *H.6.* 17. unleſs a time be ſpecially appointed by the Statute when it ſhall Commence. Com. 79.

If the Parliament begin before *Pentecoſt*, and continue after *Pentecoſt*, and the Commons agree to a Bill after *Pentecoſt*, and give a day at *Pentecoſt* next, and the Lords do ſo too; Now for that, a Bill ſhall have relation to the firſt day of Parliament, if it be not ordered otherwiſe; it ſhall be taken for this *Pentecoſt*, which is paſſed at this Seſſions,

whereas the intent of the Lords and Commons, was, that it ſhould be *Pentecoſt* after this Petition named in the Bill. *Parliament B.* 4.

Altho the Lords and Commons agree to a Bill, yet it is no Act, till the King has given his Royal Aſſent to it in proper Perſon, or under his great Seal, and if the King Aſſent, then is written upon the Bill, *Le Roy veult*; And if the King will not Aſſent, then it is indorſed, *Le Roy adviſera*. 33 *H.* 6. 17. 33 *H.* 8. *c.* 21.

Every Knight, Burgeſs, Baron of the Cinque Ports, or other call'd to Parliament, ſhall have priviledge of Parliament during the Parliament, or Seſſion of Parliament, ſo that he that arreſts any of them during that time, ſhall be impriſoned in the *Tower* by the Lower Houſe, of which he is, and ſhall be put to a Fine, and the Keeper alſo, if he will not deliver him ſo arreſted, when the Serjeant at Arms comes for him, by the command of the Houſe of which he is. *Dier*, 60.

Note, in the Lower Houſe, when a Bill is read, the Speaker does open the parts

parts of the Bill, ſo that each Member of the Houſe may underſtand the intention of each part of the Bill; and the like is done by the Lord Chancellour in the Upper Houſe; then when it is read the ſecond time, ſometimes it is ingroſſed without any Commitment, but then the Speaker makes queſtion of it, in this manner: The queſtion is, *Whether this Bill ſhall be ingroſſed or not? As many as would have the Bill ingroſſed, ſhall ſay, Yea, and as many as would not, ſay, No.*

But in the Upper Houſe of Parliament, when ſuch queſtion is made about Ingroſſing, if there be no Contradiction, the Lords do not deliver their Aſſent in ſaying, *Content*, or their Diſſent in ſaying, *Not Content*, for huſbanding the time: But if there be any Contradiction, it is tried *Seriatim*, by *Content* or *Not Content*; but neither in the Upper or Lower Houſe, the Lord Chancellour or Speaker, ſhall not repeat a Bill or an Amendment but once. *Ibidem.*

When a Bill is committed to the ſecond reading, then if the Committees

amend it in any point, then they ſhall write down their amendment in a Paper, and ſhall direct to a Line, and between what words the Amendment ſhall be put in, or what words ſhall be interlined, and then all ſhall be ingroſſed in a Bill. *Ibid.*

And if a Bill paſs in the Commons Houſe, and the Lords amend the Bill when it is ſent to the Upper Houſe, they do as before ſhew the Line, and between what words, and after the Amendments are ingroſſed, with particular References, and the Bill with the Amendments, are ſent again to the Houſe of Commons, where they affirm them: The amendments are read three times, and then they inſert them in the body of the Bill, and ſo *ê Converſo* of a Bill which paſſeth firſt in the Upper Houſe. But Note, that in one of theſe Caſes, the intire Bill ſhall not be read again in the Houſe, wherein they firſt paſs, but the amendments only, for no Bill ſhall be read above three times. *Ibidem.*

No Lord ought to ſpeak to the Bill twice in one day: Alſo no Knight, Citizen

tizen or Burgeſs, ought to ſpeak above once to one Bill in one day, unleſs ſometimes by way of Explication.

No private Bill ought to be read before the publick Bills, unleſs the one Houſe or the other do require it. *Coke lib.* 13.

Note, in the Houſe of Commons, thoſe that are for the new Bill, (if there be a queſtion of Voices) ſhall go out of the Houſe, and thoſe who are againſt the Bill, and for the Common Law, or any former Law, ſhall ſit ſtill in the Houſe; for they are in poſſeſſion of the old Law, the other of the other, to number the Voices. *Coke, lib.* 13.

In both Houſes, he which firſt ſtands up to ſpeak, he ſhall firſt ſpeak without any difference of Perſons. *Ibid.*

When a Bill is ingroſſed, at the third reading it may be amended in the ſame Houſe in any matter of Subſtance *à fortiori*; the Errour of the Clerk in the Ingroſſing may be amended.

Note; The Priviledge, Order, or Cuſtom of Parliament, either of the Upper Houſe, or of the Houſe of Commons, belongs to the Determination or

Deciſion only of the Court of Parliament; And this appeareth by two notable Precedents.

The one, at a Parliament holden the twenty ſeventh Year of King *Henry* the *6th.* There was a Controverſie moved in the Upper Houſe, between the Earls of *Arundel* and of *Devon-ſhire*, for their Seats, Places, and Preheminencies of the ſame, to be had in the King's Preſence, as well in the High Court of Parliament, as in his Counſels, and elſe-where: The King, by the advice of the Lords Spiritual and Temporal, committed the ſame to certain Lords of Parliament, who, for that they had not leiſure to examine the ſame, it pleaſed the King, by the advice of the Lords at this Parliament, in *Anno* 27*th.* of his Reign, that the Judges of the Land ſhould hear, ſee, and examine the Title, *&c.* and to report what they conceive herein: The Judges made

made Report as followeth; That this matter (*viz.* of Honour and Precedency, between the two Earls, Lords of Parliament) was a matter of Parliament, and belonged to the King's Highneſs, and the Lords Spiritual and Temporal in Parliament, by them to be decided and determined; yet being there ſo commanded, they ſhewed what they found upon Examination, and their Opinions thereupon.

Another Parliament in 31 *H.* 6. which Parliament begun the ſixth of *March*, and after it had continued ſome time, it was prorogued untill the fourteenth of *February*; and afterwards in *Michaelmas* Term, *Anno* 31 *H.* 6. *Thomas Thorpe*, the Speaker of the Commons Houſe, at the Suit of the Duke of *Buckingham*, was condemned in the *Exchequer* in 1000 *l.* damages for a Treſpaſs done to him: The fourteenth of *February*, the Commons moved in

the Upper Houſe, That their Speaker might be ſet at liberty to exerciſe his Place: The Lords referred this Caſe to the Judges; and *Forteſcue* and *Priſot*, the two Chief Juſtices, in the name of all the Judges, after ſad Conſideration, and mature Deliberation had amongſt them, anſwered, and ſaid, that they ought not to anſwer to this Queſtion, for it hath not been uſed aforetime, That the Juſtices ſhould in any wiſe determine the Priviledge of this High Court of Parliament, for it is ſo High and Mighty in its nature, that it may make Laws, and that that is Law, it may make no Law: And the determination and knowledge of that Priviledge, belongeth to the Lords of the Parliament, and not to the Juſtices: But as for the proceedings in the Lower Courts in ſuch Caſes, they delivered their Opinions. And in 12 *E.* 4. 2. in Sir *John Paſton*'s Caſe, it is holden,

holden, that every Court ſhall determine and decide the Privileges and Cuſtoms of the ſame Court, *&c.*

See *Dier*, *Fol.* 275. One was in Execution, that was a Burgeſs of Parliament, and was let at large by a Priviledge Writ of Parliament: *P.* 34 *&* 35 *H.* 8. *Rot.* 23. And Debt brought againſt the Jaylor for an eſcape, but he ſays not what happened thereon.

See *Hollinſked*, in his Cronicle, *Fol.* 1584. The Caſe of one *Ferrers*, ſet at liberty, that was a Burgeſs of Parliament, and arreſted, and put in Execution in *London*, ſitting the Parliament; and this was *Anno* 34 *H.* 8. and was the Caſe of *Ferrers*, as I believe, of which *Dier*, *Fol.* 275 ſpeaks.

In the *Lent* Seaſon, whilſt the Parliament yet continued, one *George Ferrers*, Gentleman, Servant to the King, being elect a Burgeſs for the Town of *Plimmouth* in the County of *Devon*, in going to the Parliament-Houſe was arreſted in *London*, by a Proceſs out of the

King's Bench, at the Suit of one *White*, for the Sum of two hundred Marks, or thereabouts, wherein he was late afore condemned, as a Surety for the Debt of one *Welden* of *Salisbury*; which Arreſt being ſignified to Sir *Thomas Moile*, Knight, then Speaker of the Parliament, and to the Knights and Burgeſſes there, Order was taken, that the Serjeant of the Parliament, called *S. I.* ſhould forthwith repair to the Counter in *Breadſtreet*, whither the ſaid *Ferrers* was carried, and there to demand delivery of the Priſoner. The Serjeant, as he had in charge, went to the Counter, and declared to the Clerks there what he had in commandment, but they, and other Officers of the City, were ſo far from obeying the ſaid Commandment, as, after many ſtout words, they forcibly reſiſted the ſaid Serjeant, whereof enſued a Fray within the Counter-gates, between the

ſaid

ſaid *Ferrers* and the ſaid Officers, not without hurt of either part, ſo that the ſaid Serjeant was driven to defend himſelf with his Mace of Arms, and had the Crown thereof broken by bearing off a ſtroke, and his man ſtrucken down. During this Brawl, the Sheriffs of *London*, called *Rowland Hill*, and *H. Suckley*, came thither, to whom the Serjeant complained of this Injury, and required of them the delivery of the ſaid Burgeſs, as afore; but they bearing with their Officers, made little account either of his Complaint or his Meſſage, rejecting the ſame contemptuouſly, with much proud Language, ſo as the Serjeant was forc'd to return without the Priſoner; and finding the Speaker, and all the Knights and Burgeſſes ſet in their places, declared unto them the whole cauſe as it fell out, who took the ſame in ſo ill part, that they all together

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(of whom there were not a few, as well of the King's Privy Council, as alſo of his Privy Chamber) would ſit no longer without their Burgeſs, but roſe up wholly and repaired to the Upper Houſe, where the whole Caſe was declared by the mouth of the Speaker before Sir *T. Audley*, Knight, then Lord Chancellour of *England*, and all the Lords and Judges there aſſembled, who judging the Contempt to be very great, referred the puniſhment thereof to the order of the Common Houſe. They returning to their places again, upon new debate of the Caſe, took order that their Serjeant ſhould ſpeedily repair to the Sheriffs of *London*, and require delivery of the ſaid Burgeſs, without any Writ or Warrant had for the ſame, but only as afore. Albeit the Lord Chancellour offered there to grant a Writ, which they of the Common Houſe refuſed,

ſed, being in a clear Opinion, that all Commandments, and other Acts proceeding from the nether Houſe, were to be done and executed by their Serjeant without Writ, only by ſhewing of his Mace, which was his Warrant. But before the Serjeant's return into *London*, the Sheriffs having intelligence how heinouſly the matter was taken, became ſomewhat more mild, ſo as upon the ſaid ſecond demand, they delivered the Priſoner up without any denial. But the Serjeant having then further in commandment from thoſe of the nether Houſe, charged the ſaid Sheriffs to appear perſonally on the morrow by eight of the clock before the Speaker in the nether Houſe, and to bring thither the Clerks of the Counter, and ſuch other of their Officers as were Parties to the ſaid Affray, and in like manner to take into his cuſtody the ſaid *White*, which wittingly procured

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the ſaid Arreſt, in Contempt of the priviledge of the Parliament, which Commandment being done by the ſaid Serjeant accordingly on the morrow, the two Sheriffs, with one of the Clerks of the Counter (which was the chief occaſion of the ſaid Affray) together with the ſaid *White* appeared in the Common Houſe, where the Speaker charging them with their Contempt and Miſdemeanor aforeſaid, they were compelled to make immediate Anſwer, without being admitted to any Counſel. Albeit Sir *Ro. Cholmley* then Recorder of *London*, and other the Counſel of the City there preſent, offered to ſpeak in the cauſe, which were all put to ſilence, and none ſuffered to ſpeak, but the parties themſelves, whereupon in concluſion, the ſaid Sheriffs and the ſame *White* were committed to the *Tower* of *London*, and the ſaid Clerk (which was the occaſion of the Fray)

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to a place there called *Little-eaſe*, and the Officer of *London* which did the Arreſt, called *Tailor*, with four Officers, to *Newgate*, where they remained from the 28*th* until the 30*th* of *March*, and then they were delivered, not without humble ſuit made by the Mayor of *London*, and other their Friends. And foraſmuch as the ſaid *Ferrers* being in Execution upon a Condemnation of Debt, and ſet at large by priviledge of Parliament, was not by Law to be brought again into Execution, and ſo the party without remedy for his Debt, as well againſt him as his principal Debtor; after long debate of the ſame, by the ſpace of nine or ten days together, at laſt they reſolved upon an Act of Parliament to be made, and to revive the Execution of the ſaid Debt againſt the ſaid *Welden*, which was Principal Debtor, and to diſcharge the ſaid *Ferrers*. But before this came

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to pass, the Common House was divided upon the Question: but in conclusion, the Act passed for the said *Ferrers*, who won by fourteen Voices. The King being then advertised of all this proceeding, called immediately before him the Lord Chancellor of *England* and his Judges, with the Speaker of the Parliament, and other of the gravest Persons of the nether House, to whom he declared his Opinion to this effect. First, commending their wisdom in maintaining the Privileges of their House (which he would not have to be infringed in any point) alleged, that he being Head of the Parliament, and attending in his own Person upon the business thereof, ought in reason to have Priviledge for him and all his Servants attending there upon him. So that if the said *Ferrers* had been no Burgess, but only his Servant, that in respect thereof, he was to have the pri-

priviledge as well as any other. For I underſtand (quoth he) that you not only for your own Perſons, but alſo for your neceſſary Servants, even to your Cooks and Horſe-keepers, enjoy the ſaid Priviledge, inſomuch as my Lord Chancellour here preſent, hath informed Us, that he being Speaker of the Parliament, the Cook of the *Temple* was arreſted in *London*, and in Execution upon a ſtatute of the Staple: And foraſmuch as the ſaid Cook, during the Parliament ſerved the Speaker in that Office, he was taken out of Execution by the priviledge of the Parliament: and farther, We be informed by our Judges, that We at no time ſtand ſo highly in our Eſtate Royal as in the time of Parliament, wherein We as Head, and you as Members, are conjoyned and knit together into one Body Politick, ſo as whatſoever Offence or Injury (during that time

is

is offered) to the meaneſt Member of the Houſe, is to be judged, as done againſt our Perſon, and the whole Court of Parliament, which Prerogative of the Court is ſo great (as our learned Counſel informeth us) as all Acts and Proceſſes comming out of any other inferiour Courts, muſt for the time ceaſe and give place to the higheſt. And touching the Party, it was a great Preſumption in him, knowing our Servant to be one of this Houſe, and being warned thereof before, would nevertheleſs proſecute this matter out of time, and therefore was well worthy to have loſt his Debt, which I would not wiſh, and therefore do commend your Equity, that having loſt the ſame by Law, have reſtored him to the ſame againſt him who was his Debtor, and this may be a good Example to others, not to attempt any thing againſt the Priviledge of this Court, but

but to take the time better; whereupon Sir *Edward Montague*, then Lord Chief Juſtice, very gravely declared his Opinion, confirming by divers reaſons all that the King had ſaid, which was aſſented unto by all the Reſidue, none ſpeaking to the contrary, the Act indeed paſſed not the higher Houſe, for the Lords had not time to conſider of it, by reaſon of the diſſolution of the Parliament. Becauſe this Caſe hath been diverſly reported, as is commonly alleged as a Preſident for the priviledge of the Parliament, I have indeavoured my ſelf to learn the Truth thereof, and to ſet it forth with the whole Circumſtances at large, according to their Inſtructions who ought beſt both to know and remember it.

Note, *Danby* ſays——That one coming to *Weſtminſter* (for that he was a Parliament-Man) and was arreſted, and lay in Execution upon a Condemnation long time before the Parliament, and would

would have been discharged of the Execution, and the matter was notified to the King's Council, and to the Justices of the Bench, that he could not be discharged, and *Coke* said, that it was true. 2 *E.* 4. *fol.* 8. *vide Dyer*, 162. A man in Execution for Debt, altho he was necessary for War, which is for the publick good, cannot be taken out of Execution. *per omnes Justic'.*

The Parliament shall not give Priviledge, in time of Vacation, but sitting the Court, *Priviledge. Br.* 56.

Necessary Servants attending upon their Masters, during the Parliament, shall have priviledge of Parliament; so that they shall not be arrested for Debt, or such like; And so shall have priviledge of Parliament the necessary Officers that attend on the Parliament, as the Serjeant at Arms, Porter of the House, Clerks, and such like, and in the same manner for their necessary goods, so that they shall not be arrested nor taken by any other Officer (unless it be in case of Treason or Felony) in the same manner as Judges, or Ministers of other Courts shall have for their Servants,

vants, Goods, and Chattels neceſſary; *Priviledge, Br. 6. 29. 24.*

If they cannot agree in Parliament upon a Bill, the Tryal ſhall be by the greater number of Polls.

He that comes to Parliament, ought to be a lawful Perſon, not Out-law'd, nor in Execution, nor attainted of Treaſon or Felony, neither ſhall he be a Villain. *Vide Proceſs Fitzh.* 20 8. 34 E. 1. A Witneſs that was named in a Deed among others, was Out-law'd, no Proceſs ſhall be awarded againſt him by the Statute, for that he was Out-law'd; If one of the Indictors be Out-law'd, the Indictment is not good, becauſe he is not *Legalis & probus Homo.* 11 *H.* 4. 11.

Divers of Parliament were attainted of Treaſon by the Parliament in the time of *R.* 3. with *H.* 7. and it was agreed by the Juſtices, that untill the Act of Attainder was repeal'd, ſuch Burgeſſes or Knights ſhall not be received into the Houſe to ſit there, but aſſoon as the Act was revers'd and annull'd, they ſhould come into their places, and then may proceed upon any thing there moved

moved lawfully, as lawful Perſons; But as to the King himſelf, it was agreed, that the King was a Perſon able, and diſcharg'd of any former Attainder *ipſo facto*, that he took upon him to Reign, and to be King, for there is no Superiour to diſcharge him. 1 *H.* 7. 4.

If there be divers Seſſions of Parliament, and there Acts paſſed at every Seſſion, every Act ſhall have relation to the firſt day of every Seſſion. *Comment.* 78.

The Errors committed in Chancery, in things appertaining to the Common Law, ſhall be reverſed in the Kings Bench. *Dyer* 315, *& Error Fitzh.* 71. 18 E. 3. by which it ſeems that the Kings Bench is a Higher Court than the Court of Chancery as to that; *Tamen quære*, *vide* 37. *H.* 6. 15, where it is ſaid, that it ſhall be reverſed in Parliament, by *Choke*, *Danby*, and *Aſhton*, *vide Com.* 393, *& Breve Fitzh.* 651. *Vide* 42 *Lib Aſſ.* 22. where Error was committed in Chancery upon Petition made there, and a *Scire facias* iſſued in the ſame Court againſt the Party to the Petition of the *Terre-Tenant*, to reverſe this Erro-

Erroneous Judgement thereof. If the King be deceiv'd in making his Charter, it ſhall by *Scire facias* be annulled in Chancery, out of which it iſſued, and not in Parliament, *Brief Fitzh.* 651. 16 *E.* 3. But note there, that both are the Kings Courts, and the King may ſue in which of his Courts he pleaſes, in his own Caſe. But *Thorpe* ſaid there, that in the Caſe between *G.* and *G.* the Suit was in Parliament, to reverſe a grant and Charter of the King, which *Parner* granted, for that it was between party, and party; and as to the laſt matter, *vide* 21 *E.* 3. 46. accorded.

If there be a Statute that was never put in ure, yet it may be put in ure at this time, 11 *H.* 4. 7. yet ſee the Statute of *Butler* made 20 *E.* 1. is not put in ure, which gives waſte to the Heir done in the time of his Anceſtor, for the Regiſter gives not a Writ of waſte done in the time of the Anceſtor, *&c.*

A Parliament may err, as appears *Parliament. Br.* 16. which reverſed the Eſtate of *J. S.* in certain Land, and the Charter thereof to him made, without calling the Patentee to it by proceſs before

before the Repeal; 21 *E.* 3. 4. *Plowd. Com.* 400. in the case of the Earl of *Leicester*, and *Heyden*. And Error in Parliament ought to be reversed by Parliament. *Error Br.* 65.

The Queen may under the great Seal assign two or three Lords of Parliament to supply her place in Parliament, if she be sick, or if she will not come for any other cause to Parliament, as it was done *Anno* 31 *Eliz.* the Queen that now is; at which time the Arch-Bishop of *Canterbury*, the Lord Treasurer of *England*, and the Earl of *Derby*, under the great Seal, were appointed Commanders by our Sovereign Lady the Queen to represent her Person in the Parliament, and they sat one space lower from the Cloth of Estate in the Parliament House.

A Statute in the negative restraineth the Common-Law, so that after such Statute a Man may not use the Common Law, as the Statute of *Marlbr. c.* 3. *Non ideo puniatur dominus per Redemsione*, and *Magn. Chart. c.* 34. *nullus appelletur ad sectam elienius feminæ nisi de morte virt sui.* Otherwise, it is where a Sta-

Statute is made in the Affirmative, because that does not alter the Common Law. *Parliament. Br.* 72. 108.

Note, by *Englefield* Juſtice, in the caſe of *Button* and *Savage*, that where a man had an elder Title to Land by one Entail, and after the ſame Land is given to him by Parliament, his Heir ſhall not be remitted, for by the Act all other Titles are extinct, for that the Act is the Common Judgment, and an Eſtoppel to every one that is privy to the Act. *Parliament. Brooke* 73. 29 *H.* 8. 21 *Ed.* 4. 57.

If the King has an ancient Title to Land tayled, and the ſame Land is given to him by Parliament, the Entail is gone, ſo that his Heir ſhall not avoid Leaſes made by his Father, nor Charges and the like. *Parl. Br.* 73. 29 *H.* 8.

It was held, that theſe words, to wit, the King with the Aſſent of his Lords and Commonalty Grants, or Eſtabliſhes, *&c.* This is as well as if it had been, *That it was enacted at the Requeſt of the Lords and Commons*, &c. and that the King had aſſented; but the more uſual words are, *That it be enacted by the*

King, by the assent of the Lords and Commons, &c. But the shorter, and sufficienter Words are, *that it be enacted by the Authority of Parliament. Parliament Brooke 76. 7 H. 7. 14.*

The ancient Statutes, as *Magna Charta*, and other Statutes are, *Quod Rex Statuit*, and good, for it is implied, that the Lords and Commons assented, *Parliament. Br. 76.* and the Statute *de Finibus*, 27 E. 1. is, *Statuimus & ordinavimus.*

No Lord shall be tryed by Peers, but Lords of Parliament, which are Temporal Lords, and not Spiritual Lords; for a Bishop, that is a Lord of Parliament, shall be tried as other common Persons are, as by Knights, Esquires, and Gentlemen; for that a Bishop is not a Lord but by reason of his Bishoprick, and so was *Cranmer*, Arch-Bishop of *Canterbury*, 1 *Mar. Reg. Stanford*, 153.

A Peer of the Realm shall be tried in an Appeal by Knights, *&c.* and not by his Peers, because it is at the suit of the Party. *Trial. Br.* 142. *Coron. Br.* 153. 10 E. 4. 6. *Stam.* 152. Otherwise it is in an Indictment of Treason or Felony, for that it is at the suit of the King, 10 E. 4. 6.

The

The Duke of *Somerſet* in the time of *Ed.* 6. was tried for Felony and Treaſon by his Peers upon an Indictment, for it is the Suit of the King. *Coron. Br.* 153. 10 *Ed.* 4. 6. accords. And there it is ſaid by *Littleton*, that the Lord *Gray* of *Codnor*, in an Appeal, was tried, as a Common Perſon is, and not by his Peers, although he was a Lord of Parliament. Treaſon, *Br.* 2.

A man may be attainted by Parliament of Treaſon as well as by the Common Law, by Verdict, Outlawry, or Confeſſion; becauſe the Parliament is the higheſt Court of Record in *England*, and ſhall not be reſtored in his Blood without Parliament, but the King may give to him that is attainted his Life by his Charter of Pardon, and that by apt Words. *Stanford* 53.

The King cannot alter the Common Law, nor a general cuſtom of the Country, as the deſcent of Land in *Gavil-kind*, *Borough-Engliſh*, and ſuch like, without Parliament. *Prerogative*, *Brooke* 15. 11 H. 4. 74. and ſee the Statute of 33 *H.* 8. *c.* 3. of the alteration of deſcents of *Gavil-kind*, and that the deſcent ſhall be as to Heirs at Common Law.

When a Lord of Parliament is tried by his Peers, they ſhall not be ſworn to ſay their Verdict, but they ſhall give their Verdict upon their Honour, and are not otherwiſe charged but upon their Honours. 1 H. 4. 1. and *Stamford* 152. From this, note what accompt the Law makes of a Peers Word, when he ſpeaks upon his Honour, and this in caſe of a mans Life. *A multo fortiori* they ought to obſerve in leſſer Caſes when they ſpeak, and make promiſe upon their Honour upon good Conſiderations.

When a Statute may be taken to a double intent, the better ſhall be taken for the King, as the Statute of 14 E. 3. *c. ultimo*, in Stat. 1. it is ordained, that for every Sack of Wool carried out of the Realm, the Merchant ſhall find Surety to bring into *England* Plate of Silver of two Marks, and to take two marks of Coyn again for Bullion; and after were two Statutes, one made 36 E. 3. *c.* 11. whereby it is ordained, for that the Commons have granted to the King of every Sack of Wool for three years one grand Subſidy, he grants by the

the ſame Statute, that after the three years, nothing ſhall be taken or demanded of the Commons but the ancient Cuſtom of one Mark of every Sack of Wool; and the other Statute made 45 E. 3. *c.* 4. which ordains, that no Impoſition, or Charge ſhall be put upon Wools, *&c.* other than the Cuſtom and Subſidy granted to the King, in no ſort, without the aſſent of the Parliament, and upon an Information in the Exchequer againſt one that had carried Wools, and had not found Surety according to the ſaid Statute of 14 E. 3. which two Statutes aforeſaid were pleaded, and adjudged, that the finding of Surety for bringing in the two Marks of *Bullion* is not taken way, for every Statute ſhall be taken moſt beneficial for the King, where it may be taken to a double intent, and it ſhall be taken, that it was the intent of the Makers of thoſe ſaid Statutes, to diſcharge the Commons of the grand Charges upon Wools after the three years, 4 E. 3. *fol.* 3. & *fol.* 12. *Barre. Fitzh.* 309. *Vide Com.* 10. 11.

The Duke of *Buckingham* brought an Action, *de Scandalis Magnatum*, againſt

one *Lucas*; for that he had ſaid, *the Duke had no more Conſcience than a Dog, and ſo that he may have Goods, he cared not how he came by them*, and recovered forty pound, as appears, *Mich.* 4 *H.* 8. *Rot.* 659. And the Duke may have a Suit in the *Star-Chamber* for ſuch words; and I have viewed a Copy of the Record.

The Lord *Abergaveny*, brought an Action upon the ſaid Statute againſt *Cartwright*, for that the Defendant had told, and counterfeited falſe news of the Plaintiff; to which the Defendant ſaid, that the Plaintiff will wind the Guts of the Defendant about his Neck; the Defendant pleaded not Guilty, and in Evidence the Plaintiff ſhewed a Letter written to one *B.* wherein the Defendant ſaid, that he underſtands by Report, that the Lord had ſaid, *ut ſupra*, and held good Evidence, and it was found for the Plaintiff, and had Judgment accordingly; And ſo ſee, that to *write* and to *ſay*, are all one, for it is publick. *Vide* Book of Entries 13. that fixing a ſlanderous Bill in an open and and publick Place bears an Action, *&c.*

In

In an Errour in Parliament, the Record remains with the Justices, and they are to shew it to the Parliament, and it shall not be removed to Parliament. 8 *H.* 5. Errour *Fitzh.* 88. *Dyer.* 375. In such Case the Roll was carried by *Wray* Chief Justice into Parliament, for the Errour was assign'd in the King's Bench, but after that the Court of Parliament had examined it, he takes the Record with him, and leaves a Transcript in the Court of Parliament.

A Petition in Parliament exhibited by *A. T.* for a Title he made to Land, that the King enjoyed, which was received, and sent into *Chancery* to be tried, *Ass. Fitzh.* 287. *Lib. Ass.* and he surmised, that there was a delay in the Tryal of his Right.

Those of *London* may bargain and sell their Land there, as they might before the Statute of Inrolments, and so it may be done in other Boroughs and Cities; and it was the Opinion of the Justices of both Benches, that the Lands in Cities, *&c.* are, where the Common Law is exempted from the Act, and so, that Lands devisable before, 32 *H.* 8. *c.* 1.

are deviſable at this day, notwithſtanding the Act aforeſaid. *Dyer* 155. And ſo a Statute in the Affirmative ſhall not change the Common Law, nor common Cuſtom of a Town, as to Inheritances.

A Lord of Parliament ſhall have Knights upon his Tryal in every Action, 27 H.8 *fol.*27. Challenge. *Fitzh.* 115. 13 *E.* 3. in a *Quare Impedit* againſt a Biſhop it has been ſo adjudged. *Com.* 117. *Dyer* 208. according.

A Lord of Parliament may be Outlaw'd for Murder, 27 H. 8. *Fol.* 17. and it was the Caſe of the Biſhop of *Wincheſter*, *Ibidem. Vide Proc' F.* 224.

If a Lord of Parliament makes a *Reſcous*, a *Capias* ſhall be taken out againſt him, if the Sheriff return the *Reſcous*; otherwiſe it is in Caſe of Debt. 27 H.8. 27.

An Exigent ſhall iſſue forth againſt a Lord of Parliament, if it be not certified that he is a Lord of Parliament, 27 H. 8. 27. 35 H. 6. A Lord of Parliament ſhall not be Sworn on an Inqueſt, 27 H. 8. 27.

Day of Grace ſhall not be given againſt a Lord of Parliament. 27 *H.* 8. 27. 27 *E.* 3.

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A *Capias ad Satisfaciendum*, does not lye againſt a Lord of Parliament. 27 *H.* 8. 27. for the Law preſumes that he has Aſſets, *&c.* 11 *H.* 4. 15.

A Man ſhall not be remitted that takes an Eſtate by Parliament. 34 *H.* 8. *Remitter Br.* 49. If the King gives Land to me, that is mine already, by Patent in Fee, I ſhall not be remitted. 21 *E.* 4. 57. But if the King recites my former Right, and gives it me, I ſhall be remitted. *Ibidem. Lib. Aſſ.* 28.

Note; That the King cannot alter the Law, by his Proclamation, but he can make Proclamation, that if any one does contrary to the Contents of the Proclamation, that he ſhall incurr the Indignity of his Majeſty; But upon pain of forfeiture of his Land or Life, without Parliament he cannot. *Vide* 31 H. 8. *c.* 8. That it was ordain'd by Parliament, that Proclamations made by the King, by advice of certain of his Council named in the ſame Act, ought to be obeyed, as though they were made by Act of Parliament. And after, 34 H. 8. *c.* 23. another Statute was made, concerning Offenders of the former Statute; But by

the 1 *H.* 6. *c.* 12. both the Statutes are repealed; by which Statutes it appeareth, that Proclamations ſhall not bind, as Acts of Parliament do, unleſs it be ſo ordain'd by Parliament; for if ſo, the ſaid Statutes of *H.* 8. were made in vain.

A Statute recites, that ſuch are attainted of Treaſon before ſuch Commiſſioners, and this Attainder is confirmed; if there were no ſuch Attainder in deed, the Act does not attaint them at all. *Com.* 400. A notable Caſe between *Robert* Earl of *Leiceſter* and Sir *Chriſtopher Heydon*, and the recital that they were attainted, ſhall not conclude the Party ſo ſuppoſed to be attainted, but that by an Averrment he may avoid it; ſee the Book.

By the 27 *H.* 8*th.* it was ordained, that it ſhould be Felony in a Servant to embezil the Goods of his Maſter, and after by 1 *E.* 6. *c.* 12. all Felonies, made in the time of *H.* 8*th.* are annull'd, but the Felony of Embezilling, *&c.* And by the ſaid Statute of 1 *E.* 6. it is ſhewn, that the ſaid Statute of 27 H. 8*th.* was held at *Weſtminſter*, upon divers Prorogations, the 4*th.* of *February* in *Anno* 27 H. 8.

H. 8. and there continued, and kept untill the 24*th.* day of *April* next following; and for that the ſaid *Branch* miſrecites the Act of 27 H. 8. aforeſaid, (for that Seſſion begun the fourth day of *February* 27 H. 8. and continued untill 24*th.* day of *April* then next following, and then ended, and not continued until 24*th.* day of *April*, as the *Branch* makes mention) by which it is Evident, that the *Branch* of the Act that referrs to a Statute made in one Parliament, that begun ſuch a day and continued till ſuch a day, (whereas the Parliament did not continue), this muſt be void in point of time: and ſo the Parliament may miſtake a thing, and by reaſon of this Miſpriſion, it will not Arraign a Man that ſhall embezil his Maſter's Goods, after the ſaid Act of 27 H. 8. *Com.* 400.

If a Statute make an Act Felony, and does not mention Acceſſories, yet there ſhall be Acceſſories in the Caſe of the Statute: and this Maſter *Dalliſon*, Juſtice of the King's Bench, ſaid, that it was ſo held by the King's Bench Court, 3 & 4 *Ph. et Mar.* as *Lambert* Reports in his Book of the Juſtices of Peace. *Fol.* 289.

Vide

Vide Stamford, 44. and 19 *H.* 6. 47. according. In the Caſe of counterfeiting the Seal, or Money, where the conſenter or aider to it, &c. And yet the Statute ſpeaks, If a Man counterfeit, &c. which thing another did not: ſo of Rape, where one commits the Act, and the other aids. 11 H. 4. 12. *Coron. Fitzh.* 228. *Vide* Parliament. *Br.* 46.

If an Act make a new Law in the Affirmative, which was not at Common Law, this Law implies a Negative; as a Man ſeiſed in right of his Wife, infeoffs a Stranger to the uſe of himſelf and his Wife, ſhe is not remitted becauſe ſhe is a Purchaſer of the Uſe, and ſhe ſhall have the Land, as to the Uſe, wherein ſo much is implied, as if the Statute had ſaid, *Et non aliter, ſeu alio modo.* Com. 113. As the Statute of *Weſtm.* 2 *c.* 4. grants, that in a *Quod ei Deforciat*, if the Tennant recover, and maintain the Title of that which the Demandants call *Ad Warrantum ac ſi eſſent*, Tenants in *Priori brevi*, there, if the former Action had been ſuch, in which he could not Vouch, as a *Scire Facias*, the Demandant ſhall not Vouch

becauſe

becauſe it is not a new Ordinance of a thing that was at Common Law, which implies a Negative; As if it had been ſaid, *Et nullo alio modo. Ibidem.* 113.

When a Statute is made to Redreſs Covin, or an Inconvenience which was at Common Law, altho it be penal, yet other Caſes in the ſame miſchief ſhall be taken by Equity of the Statute, as the Statute of the *16 R. 2. c.* 5. of *Premunire* enacts, that if a man Sue for any thing in the Court of *Rome*, or elſe-where, for which he may have remedy in the Court of the King, he ſhall loſe his Land, *&c.* In this Caſe, if a man Sue at the Court of *Rome* for that, for which he may have remedy in the Biſhops Court in *England*, he ſhall be within the ſaid Statute, and yet the ſaid Statute ſpeaketh of the Court of *Rome*, as appears, *Premunire Br.* 9. 9 *E.* 4. 3. *per Yelverton*, who ſaid, that in the King's Bench it has often been the Opinion, that if a Clerk ſue another in the Court of *Rome* for a thing Spiritual, where he may have remedy in this Realm, in the Court of the Ordinary, that he is in the Caſe of the Statute. The Statute

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de Religiosis, is that a recovery by the Defendant shall be Mortmain, and the Recovery by Reddition, Confession, or Action tried, is taken by Equity, by *Genney*, which is not decided, and so of Rent or Common, which is neither Land nor Tenement, by *Lacon*, which is not denied, 3 E. 4. 14. *Vide Montague* in the Case of *Wimbish*. Com. 59. That the Statute which comes to redress *Covin* and *Fraud*, shall be taken by Equity, altho it be not within the words of the Statute, and a Statute that is for the Redressing a general Mischief may be taken by Equity. by *Horton*. Parl. *Br*. 13. 19.

The Justices ought to take notice of a general Pardon given by Parliament, and allow it to the Party upon his Arraignment, altho the Party do not plead it, unless there be an Exception in the Pardon so given, for in such Case he ought to shew, that he is not one of them that is excepted, 27 *H*. 8. 7. for the former and the latter, 8 *E*. 4. 7. *Charter of Pardon*, *Br* 46.

The King shall not be bound by a Statute, unless he be expressly named in it, by *Prisot*, and *Ashton*, as in a *Quare Impe-*

Impedit. Altho the ſix Months are elapſed, the King ſhall not be bound, but ſhall have a *Quare Impedit*; ſo if the King uſurp on an Infant, this ſhall put him out of Poſſeſſion, notwithſtanding the Statute of *Weſtm.* 2 *c.* 5. which aids an Infant againſt a common Perſon. 35 *H.* 6. 62, 63.

A Man is attainted of Treaſon, and after the King gives his Lands to a ſtranger, and then he commits a Trepaſs on the Land, and after this he is reſtored by Parliament, and the Attainder is annulled, as if there had been no ſuch Attainder, he ſhall not be puniſhed for that Treſpaſs. *Vide* Treſpaſs *Br.* 425. 10 *H.* 7. adjudged; *Vide* 4 *H.* 7. 10. But if a Daughter, or other collateral Heir enter, and take the Profits, and after the next Heir is born, as a Son; he ſhall not have remedy for the outing of the Incumbent, nor ſhall have an account for the mean Profits. 9 *H.* 6. 23.

Note, if a man is attainted of Treaſon by Act of Parliament, all his Lands, Goods and Chattels are forfeited to the Crown, altho it be not ſo ſaid in the Act it ſelf: by *Townſend Juſtice*.

By

By the Common Law, if a man be attainted by Parliament of Treaſon or Felony, yet the Land is not in the Crown, before it be ſo found by Office, if it had not been ſo ordered by the Statute, 33 *H.* 8. *c.* 20, which gives poſſeſſion in ſuch caſe to the King without any Office; yet where a Tenant of the King dies without Heir, there the Free-hold ſhall be in the King without Office, for that the Free-hold cannot be in ſuſpence. 9 *H.* 7. 2 *Dyer* 486. *Com.* 486, 229.

An Act of Parliament in the Affirmative ſhall not alter the Common Law, as a man recovering Debt or Damages, does not ſue Execution within the year he was put at the Common Law to his new Original, for he ſhould not have had a *Scire Facias* before the Statute of *Weſtm.* 2. *c.* 45. *de his quæ recordata ſunt*, which gives a *Scire Facias* in ſuch caſe, yet the party that recovers, may have a Writ of Debt after this Recovery, for that the ſaid Statute is the affirmative, 39 *H.* 6. 3.

The Statute of 42 *E.* 3: *c.* 11. ordaineth, that four dayes before the Aſſizes, the Pannel of the Aſſize ſhall be arrayed,

ed, yet two dayes before the Aſſize it is ſufficient to array the Pannel in Aſſizes, for that the Statute is in the affirmative, 43 *Lib. Aſſ.* 22.

It is enacted by Parliament, that *A. B.* ſhall be reſtored, and that he may enter, yet he ſhall not enter upon the King, if it be not ſo enacted by Statute, that he may enter as well upon the King, as upon a Common Perſon. 4 E. 4. 22, 23.

At a Parliament holden by Adjournment, 38 H. 8. it was admitted, that if a Burgeſs of Parliament was made Mayor of a Town that had Judicial Juriſdiction, and the other is ſick, that thoſe are ſufficient Reaſons to chooſe others; and ſo they did by Writ of the King out of *Chancery*, that contained this matter, that it was admitted in the Commons Houſe of Parliament. *Par. Br.* 7. 38 H. 8.

Note, A Statute or Act of Parliament ſhall not be proclaimed, for the Parliament repreſents the Body of the whole Realm, for there are Knights, and Burgeſſes of every County and Town, 39 E. 3. 7. But otherwiſe where it is ordained by the Act, that it ſhall be proclaimed, as the Statute of Labourers,

23 *H.*

23 *H.* 6. *c.* 13. And the Statutes of Maintenance, Champerty, Imbracery, and Reteiners, 32 *H.* 8. *c.* 9. are ordained to be proclaimed.

A private Act of Parliament ſhall not conclude men, as a general Act ſhall; neither are ſtrangers to it bound to take any notice, as Privies are, by 37 *H.* 6. 15. 13 *E.* 4. 8. *Office de Court, Br.* 27.

Where the matter is againſt Reaſon, and the Party has no Remedy by the Common Law, he may ſue for Remedy in Parliament, 37 *Lib. Aſſ.* 7.

A man was reſtored by Parliament to Land that was forfeited, and had a Writ directed to the Eſcheator to put him into Poſſeſſion, and he returns, that he was diſturbed in making Execution, by *A. B.* who came, and ſaid, that he had not notice of the Reſtitution, and by the Juſtices he is excuſed till he had notice, and the Reaſon, as it ſeems is, for that it is a particular Act, 43 *Lib. Aſſ.* 29.

The Crown of *England*, and the Preheminence thereof, by Parliament, with all Prerogatives belonging to it, was gi-

ven.

ven to *H.* 7. in Tayle, this extends not to Liberties and Franchiſes of others. 1 *H.* 7. 13.

The King and the Lords aſſent, that *H. B.* ſhall be attainted, and loſe his Land, and becauſe it did not appear by the Act, that the Commons aſſented, therefore adjudged by all the Juſtices, that it was no Act of Parliament: whereupon the party was reſtored, 4 *H.* 7. 10.

Note. By the ſame Reaſon, that the Queen by her abſolute Authority may commit a man to Priſon, and to tarry there during Pleaſure, as appears, *Stamford*, 72. ſo alſo by her Proclamation ſhe may ordain, that if any one do act againſt the Content of that Proclamation, that he ſhall be impriſoned, and yet ſee 42 *Lib. Aſſ.* 5. where a Commiſſion iſſuing out of Chancery to ſeiſe the Goods of *A.* and his Body without other proceſs, the Suit was awarded void.

Note, The Queen may by Proclamation inhibit, that her Subject ſhall not go out of the Realm, upon pain to make Fine for the Contempt if he go, *&c. Fitzh. Nat. Br.* 85.

T. in-

T. infeoffs *W.* and *A.* his Wife in Tail, and after it was enacted by Parliament, that all Eſtates made by *T.* to *W.* ſhall be void; yet by *Fineax* and *Brian* Chief Juſtice, this is void, as well to the Wife as to the Husband, for they are but one Perſon in Law, and the Wife cannot take but by the Husband; But if an Eſtate had been made to *J.* and to another Man, and all Eſtates made to *J.* are enacted by Parliament to be void; there the Eſtate is good for a Moiety to the other man, and with this agreed *Vaviſor*, yet others are of a contrary Opinion 5 *H.* 7. 34. *Dyer* 331, 332.

Note, that it was agreed by the Juſtices, that the Statute of Additions, made in *Anno* 1 *H.* 5. *c.* 5. ſhall bind the King as to Indictments and ſuch like, as well as common Perſons. 5 *E.* 4. 32. *Com.* 236. But ſee there, that an Indictment is ſpecially mentioned, which is at the King's Suit, and ſo is as a Name in the Statute.

See in the Book of *Bracton*, about a Parliament holden by a Lieutenant, or by a Protector, or by a Deputy, and the

the like; See 8 *H.* 5. *c.* 1. whereby it is enacted, that Parliament Writs being awarded in the name of the King's Lieutenant, ſhall not be ſtaid upon the King's Return into *England*, neither ſhall the Parliament be diſſolved.

An Act of Parliament in the time of *H.* 6. was made, whereby all Corporations and Licenſes granted by that King were made void: It was held, that this Act muſt be pleaded Certain, and the Court is not bound to take Conniſance of them no more than of a particular Act for a particular Perſon, for this Act is not general, but particular in a generality, That all Corporations, *&c.* or that all Lords, or all Biſhops ſhall have ſuch a Thing, *&c.* But where an Act is general, and extends to every Man, this ought to be pleaded. 13 *Eliz.* 4. 8.

A particular Act was made, that the Chancellor calling to him a Juſtice, may award a *Subpæna* againſt *A.* and *B.* and make Fine of the matter; there all the Juſtices beſides *Littleton*, would not award a *Subpæna* General, but a Special one, making mention of the Act, for

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a particular Act ſhall be taken ſtrictly, and a general Act for the Publick Good ſhall be conſtrued largely. 14 *Eliz. c.* 41.

Every one ſhall be bound by an Act of Parliament, if his Right be not ſaved, for every one is privy to an Act of Parliament. 21 *H.* 7. 4. by *Vaviſor.*

The Statute gives a Writ of *Præmunire*, &c. Yet one may have a Bill in the King's Bench, in *Cuſtodia Mareſchalli*, 2 *R.* 3. 17. and the Statute of 1 *R.* 2. *c.* 12. gives a Writ of Debt againſt the Jaylor, and yet the Party may have a Bill upon the Eſcape againſt him. *Cam.* 35.

If the King be intitled to the Land of *J. S.* by forfeiture for Treaſon, or Felony, by Act of Parliament, or Office, by this all Tenures are determined, as well of the King as of all others, and there, if this Land be afterward given to another, by another Act of Parliament (ſaving to others all Rights, Intereſts, Titles, Rents, Service, and the like, as if no ſuch Act had been made) there the Seigniories and the like, are revived, for no Seigniory was in *eſſe* at the time of the ſecond Act made, and ſo there are no

no Words of giving, nor of reviving, but Words of ſaving, which ſerve not but to ſave that which is in *eſſe* at the time of ſaving, *&c.* But ſuch *Proviſo* in the firſt Act may ſerve, for it comes with the Act, that intitles the King, and if the King is intitled to Land by Office, by Eſcheat, and after it is enacted by Parliament, that the King ſhall enjoy it, ſaving to all others their Seigniories and Hundreds, there ſuch ſaving will not ſerve, for the Reaſon aforeſaid, for all was extinct before by Office, and nothing was in *eſſe* at the time of the ſaving, *&c.* 27 *H.* 8. *Parliament. Br.* 77.

Note, If an Act be general, *viz.* Where it ſpeaks as well within Franchiſe, as without, this ſhall bind a County Palatine. 19. *H.* 6. 12. by *Hoddy.*

Note, Thoſe Words that deſtroy Life and Member in Statutes, are intended of Felony, as the Statute of *Weſtm.* 2. *c.* 34. where a Man raviſhed a Woman eſpouſed, or Damſel, that aſſented not before or after, he ſhall have Judgment of Life and Member; which Words have always been taken to be Felony, without the word Felony mentioned

tioned in a Statute; and ſo the Statute *de frangentibus Priſonam.* 1 E. 2. *Coron. Br.* 204. 9 E. 4. 20.

If a Felon be pardoned by Parliament, and pleads not Guilty, he ſhall not have a Writ of Conſpiracy, for the Felony was gone before by the Pardon. *Fitzh. Nat. Br.* in the Writ of Conſpiracy there.

In a Replevin, the Defendant juſtifies, as under Sheriff of *London*, by a *Fieri facias*, to levy the Expences of the Knights of Parliament, amounting to, *&c.* And every Hundred was put in certain, and *W.* one of the Towns of ſuch an Hundred, was rated 10 *l.* and he, as under Sheriff, took the Cattel in the Town, in ſuch a Place, and the ſame Beaſts he ſold, and paid the Knights, and ſo avows, *&c.* And there by the Court, he may take the Arms of a Man for the Duty of the whole Town; and that thoſe Boroughs which ſend Burgeſſes of Parliament, ſhall not pay to the Expences of the Knights of the County, unleſs there be a Preſcription, *That the Tenants of the Ancient Poſſeſſions of Lords of Parliament*, have paid towards the ex-

expences of Knights of Counties; But if the Lords purchaſe Lands *de novo*, (that are lyable to thoſe Expences) there the Tenants muſt pay. 11 *H.* 4. *Fol.* 2.

The Villains of Lords of Parliament, that come to Parliament, ſhall not be contributory to the Wages of Knights of the County, that come to Parliament, but the Lords ſhall have Letters in their own names, directed to the Sheriff, commanding him, not to diſtrain their Villains, *&c. F. N. B. fol.* 229.

If there be divers Seſſions in one Parliament, and the King ſigns not a Bill till the laſt, there all is but one and the ſame day, and all ſhall have Relation to the firſt day of the firſt Seſſion, and the firſt day and the laſt are but one Parliament, and one and the ſame day, unleſs ſpecial mention be made in the Act when it ſhall take its force; but every Seſſion, wherein the King ſigns Bills, is a day by it ſelf, and one Parliament by it ſelf, and ſhall have no other Relation, but to the ſame Seſſion. 33 *H.* 8. *Parliament. Br.* 86.

Note, If a Man in pleading alledge a Statute, and miſrecites it in the Matter,

or in the Year, Day, or Place, the other Party may demurr generally, becauſe there is no ſuch Law; for every one that alledges a Statute, ought to recite the Law truly, but in the Kings caſe it may be amended, and this in another Term, otherwiſe in the caſe of a common Perſon. 33 H. 8 *Parliament. Br.* 87.

A Man cannot preſcribe againſt a Statute, as in Treſpaſs, the Defendant preſcribed to diſtrain for Tenure upon the Land holden, and to carry the diſtreſs to *D.* in another County, whereupon he was condemned, for the Statute is, that a man ſhall not take a diſtreſs in one County, and carry it into another. *Marlebr.* 4. and *W.* 1. *c.* 16. 30 *Lib. Aſſis. Pl.* 38. Preſcription *Br.* 50. And yet, if a man hold Land in one County, of a Mannor that is in another County, he may diſtrain for Rent, or Services of the ſame Land, and carry the diſtreſs where the Mannor is, and impound it there. 1 H. 6. 4. *Vide* Preſcription. *Fitz.* 58. 8 H. 3. *&c.* 6 H. 8. *Rot.* 351.

Aſſ. was awarded of Damages for the Plaintiff upon Certificat of the Biſhop, that the Tenant was a Baſtard, and the Par-

Parliament wrote to the Juſtices of Aſſize to ceaſe, and yet they proceeded; whereupon the Chancellour reverſed this Judgment before the Council, and adjudged it in the ſame manner as it was upon the Certificat, *&c.* And then remitted it to the Juſtices of Aſſize, that had proceeded, and given Judgment for the Plaintiff, for that the Biſhop had certified the Tenant to be a Baſtard; and they took no notice of the Reverſal before the Council, for that is not a place where a Judgment ought to be reverſed. 39 E. 3. 14.

Note, After Judgments given in the Court of the King, the Parties and their Heirs ſhall continue in poſſeſſion till the Judgment be avoided by Attaint, or by Error, as it hath been uſed by the Laws in the time of the Kings Progenitors. 4 H. 4. *c.* 23.

The Parliament may take Recognizances, whilſt it is ſitting, *viz.* the Upper Houſe, 1 *H.* 7. 20. and ſo it ſeems may the Lower Houſe, *Recogn. Br.* 8. *Parl. Br.* 92.

Note, That it hath been often found, that *Wales*, and the Counties Palatines that did not come to Parliament, ſhould not be bound by the Parliament of *England*

land, for Ancient Demeſn is a good Plea in an Action of Waſte, given by the Statute, and yet Ancient Demeſn is not excepted; and it is enacted, 2 *E. 6. c.* 28. that Fines with Proclamations ſhall be in *Cheſter*, for the former Statutes do not extend to it, and it is enacted, that Fines with Proclamation ſhall be likewiſe in *Lancaſter*, 37 H. 8. *c.* 19. and Proclamation upon an Exigent is given by Statute, in *Cheſter*, and in *Wales*, 1 *E. 6. c.* 10. and ſuch another Act of *Lancaſter*, 5 *&* 6 *E. 6. c.* 26. And the Statute of Juſtices of Peace ſhall not extend to *Wales*, nor to a County *Palatine*, and therefore an Act is made for *Cheſter* and *Wales*, 27 H. 8. *c.* 5. But ſee *Tit.* County *Palatine*, 17. *&* 20. that any Act ſhall extend to a County *Palatine*, 8 H. 6. *c.* 34. See above, the Act for Knights and Burgeſſes of the ſaid County *Palatine* to come to Parliament, *&c.* 34 H. 8. *c.* 13.

The Wife of a Duke, Earl, Baron, and ſuch as being married, or Widows, in Caſe of Felony and Treaſon, ſhall be tried by their Peers, as her Husband ſhall be tried. *per* 20 H. 6. *c.* 11. *Stamf.* 153. But if her Husband cannot have ſuch Tryal, the Wife ſhall not; and if after the death of the Husband, ſhe

marries an Eſquire or Knight, ſhe loſes her Dignity in Law. *Dyer* 79.

An Attachment is not grantable by the Common Law, Statute Law, Cuſtom, or Precedent, againſt a Lord of Parliament, and the Lord *Cromwel* by order in the Parliament Chamber was diſcharg'd of ſuch Proceſs. *Dyer*, 316.

See Debt, for 100 *l.* brought by *R. Buckley*, Knight, againſt *Richard Thomas* of *Lanuaire*, upon the Statute of 23 H. 6. for that he was choſen Knight for the County of *Angleſey* in *Wales*, which ſaid *R. T.* being Sheriff of that County, did not return him accordingly, where it was argu'd, that the Statute did not extend to *Wales*, as to give the forfeiture aforeſaid to the Knight choſen, and not returned; And yet it was adjudged, that the Plaintiff ſhould recover, becauſe the Statute 27 H. 6. enacts, that the Country and Dominion of *Wales* ſhall be, ſtand, and continue for ever incorporated, united, and annexed to and with the Realm of *England*, and that every Perſon born, or after to be born in the ſaid Country or Dominion of *Wales*, ſhall have, enjoy, and inherit all and every Liberties, Franchiſes, Rights, Privileges, and Laws,

within this Realm, and other Dominions of the King, as other Kings Subjects naturally born within the ſame, have had and have enjoyed. *Com.* 120.

If a man ſpeaks ſlanderous words of the Queen, and is not puniſhed within the time given by the Statute of 23 *Eliz. c.* 2. he ſhall be puniſhed by the Statute of *Weſtm.* 1. *viz.* ſhall be impriſoned untill he find the Perſon that ſpake, *&c.* according to the Statute, *W.* 1. *cap.* 33. and not according to the advice of the Council, for that is when the ſlander touches the Nobles and great Officers, expreſsed in the Statutes made 2 *R.* 2. *c.* 5. *&* 12 *R.* 2. *c.* 11. and not the King, for he is a Perſon exempted, and not implyed in thoſe words of great Men and Nobles. *Dyer*, 155.

In a *Præmunire* againſt a Lord of Parliament, he ought to appear in his proper Perſon, and not by Atturney, unleſs he has a ſpecial Writ of Chancery. 14 H. 4. 14. 9 E. 4. 2.

Note, that in *January*, 38 H. 8. *Henry Howard*, Earl of *Surrey*, Son and Heir Apparent of *Thomas* Duke of *Norfolk*, was attainted of high Treaſon for joyning the Arms of *England*, before the Con-

Conqueſt, and other Arms after, to his own Arms, and other pretences againſt the Prince, and he was tried by Knights and Gentlemen, and not by Lords, nor by Peers of the Kingdom, for that he was not an Earl by Creation but by Birth, as Heir Apparent of a Duke, who was inveſted with the dignity in Law, for if it had been a Dignity by Creation, and a Lord of Parliament, he ſhould have been tried by his Peers. 38 H. 8. Treaſon, *Br.* 2.

A Statute in the Affirmative doth not alter the Common Law. *Dier.* 50.

Every Seſſion is as a Parliament. *Dyer, Fol.* 203.

Note, An attaint by Parliament, ſhall have Relation to the firſt day of Parliament, as to the forfeiture of the Lands of the Offender, unleſs it be ſpecified in the Act, that the forfeiture ſhall relate to the day when the Treaſon was committed. *Relation*, 43. 35. H. 8.

Note, That in every Caſe of Treaſon or Felony newly made by Statute, the Lords of Parliament ſhall have their Tryal by their Peers, notwithſtanding that the Statute does not provide for it by expreſs Words; ſo that the Proviſo

inſerted for their Trya's in ſuch Caſes in the Statute is an abundance. *per Stamford*, 153. And Tryal *per pares* is given by *Magna Charta*, *cap. 9. Stamford*, 152.

Note, That in Caſes of miſpriſion of Treaſon, or Felony, Lords of Parliament ſhall be tried by their Peers.

Note, That a Statute was made *Anno Domini* 1296. by the King and his Barons, *Clero excluſo*; and this was at a Parliament holden at St. *Edmundsbury*, in the Reign of *Ed.* 1. as *Jewel* Biſhop of *Sarum*, againſt *Harding*, *fol.* 620, reporteth; And in a Province at *Merton*, in the time of *H.* 3. 1273, where the matter was moved touching Baſterdy, for the Legitimation of thoſe that were born before Marriage, and it is ſaid, that the Statute paſſed intirely with the Lords Temporal without the Clergy; but it ſeems that it is no Statute, but an affirmance of the Common Law, which the Lords ſaid, that they would not alter. ſee 11 *R.* 2. *cap.* 9.

A man attainted of Felony or Treaſon, ſhall not be reſtored in Blood without Parliament. *Reſtitution. Br. p.* 37. 3 *E.* 6.

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In a *Homine Replegiando* the Sheriff returnes, that the Defendant had eloigned the Body, ſo that he could not make deliverance, *&c.* then the Plaintiff ſhall have a *Capias in Withernam*, to take the Body of the Defendant, and detain him, *&c.* untill, *&c.* be he either a Peer of the Realm, or other Common Perſon, and if the Sheriff return, *Non eſt inventus*, upon this *Capias* in *Withernam*, of the Body, then the Plaintiff ſhall have a *Withernam* of the Goods of the Defendant. *F. Nat. Brevium* 68. 11 *H.* 4. 15.

R. E. brought a Writ of Chancery, and of the Privy-Seal, to be diſcharged of ſerving in Juries and Aſſizes, for that he was a Baron, and therefore ought not to be ſworn in *Aſſ.* againſt his own Will, and it was queſtioned whether he held by Barony, to come to Parliament as a Baron, and he ſaid, that he held by one part of a Barony, and that he and his Anceſtors have uſed to hold ſo time out of mind; and after upon good Adviſe he was altogether diſcharged. *Exemption. Br.* 3. 46 *E.* 3. 30.

When an Errour is ſued in Parliament, committed in the Kings Bench, a *Scire facias* ſhall iſſue forth to the Par-

ty to anſwer at the next Parliament; and by *Hankford*, in Errour ſued there, it is ſaid, that the Record muſt remain with the Juſtices, and they ſend a tranſcript of it thither, *&c. Error. Fitz.* 18. 8 *H.* 5. and *Dier* 375, the Record it ſelf, and a Tranſcript of it, was brought into Parliament to be examined, and the Tranſcript was left there.

Bagot was made a *Denizen* by *H.* 6. and after, by a Parliament in the time of *Ed.* 4. All Acts done by *H.* 6. are repealed and annulled, yet *B.* continues a Denizen, for that he was made once a Denizen, and there muſt be a ſpecial Act to annull that Denizenſhip. *Denizen. Fitzh.* 1. 9 E. 4.

Note, If a Peer of the Realm, or Lord of Parliament, be Demandant, or Plaintiff, Tenant or Defendant, there muſt two Knights be returned of his Jury, or elſe the Array may be quaſhed; as appears in an Aſſize betwixt the Earl of *D.* and *Newdigate. Com.* 117. Challenge, *Fitzh.* 115. 13 E. 3. and *Dier*, 107. *Vide Dyer.* 318. where the Defendant was proclaimed Earl of *Kent*, by Deſcent, pending the Writ, and after the Earl challenged the Array, for that he was

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an Earl, and no Knight returned in the Pannel, and it was not allowed, for the admittance of both Parties is to the contrary, and no default in the Sheriff, for he had no notice of such estate of either Parties; and note, *Dier* 246. If there are divers Defendants, whereof one is a Lord of Parliament, and the Array is challenged for the Cause before, this shall serve to quash all the Array against the other Defendants also, for that it is intire.

The Statute of 4 H. 7. of Fines is penal, because the Right shall be bound, if he comes not in within five years after the Title accrued, and for that the Statute is very beneficial for the repose and quiet of Land in Possession of the Subject, it shall be largely expounded, and therefore, if the time Commence in the Father, which is a stranger to the Fine, to make claim within the five years, and after he dies, within the five years, his Issue, that is within Age, shall be bound to pursue the rest of the five years commenced in the Life of his Father; as it is adjudged in the Case of *Zouch* and *Stowell*. *Com. Fol.* 375. And a Corporation, as Mayor and Communalty, that have an absolute Estate,

shall

ſhall be bound, if they do not make claim within five years after the Title accrued; and yet the Statute of 4 H. 7. of Fines, makes no mention of Corporations, or Bodies politick, but yet are Parties within the intent of the Statute. *Com.* 538. Otherwiſe it is of a Perſon of the Church, and a Biſhop, becauſe they have not an abſolute Eſtate. *Ibidem.*

Chaplains, that are Maſters of Chancery, and are attendant on the Parliament, ſhall not be Contributory (by reaſon of their Benefices) to the expences of Proctors made by the Clergy, that come to Parliament, and if they be, they ſhall have a Writ to the Arch-deacon and his Officers, for the diſcharging them, and upon that there ſhall be an *Alias*, and *Pluries*, and *Attachment* againſt them: which Writ appears in *Fitzh. Nat: Brevium*, 229. and by the Writ it appears there, that this is given by the Statute of *Weſtminſter. Priviledge. Br.* 56.

Lord and Tenant, and the Tenant is attainted of Treaſon by Parliament, and it is ordained by it, that he ſhall forfeit all his Lands, and after is pardoned and reſtored by another Parliament,

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Habendum ſibi, & Hæredibus ſuis, as if there were no ſuch Attainder, now he ſhall hold of the common Perſon as before, and yet once the Tenure was extinct by the forfeiture of the Land to the King. 21 H. 8. Tenures. *Br.* 70. *Vide*, *Parliament Br.* 77. What words in an Act will revive Seigniories, which were before extinguiſhed, and that it is no good Caſe; And ſee *Stamford.* 197. That if the King infeoff an eſtranger of them, it ought to revive the meſn Seigniory, which was before the Attainder, *Tenendum* of the meſn Lord, as it was before the Attainder. *Vide* Petition *F.* 19 H. 4. *6 Edw.* 3. For this excellent Caſe, *Vide Dyer* 313. where the ſaving of a Seigniory in a Statute is not good.

When a Statute gives a forfeiture to the King, and to the Party griev'd, as where a man is prejudic'd by Perjury, or by a fraudulent conveyance of Land or Goods, to defraud the Action or Suit of Creditors, and ſuch like, there none ſhall have the Suit upon the Statute but the King, or the Party that has receiv'd Loſs thereby.

Otherwiſe it is, if the Statute ſays, that the King ſhall have a Moiety, and he

he that ſhall inform ſhall have the other Moiety (without mentioning the Party grieved.) And if the King commenceth the Suit before an Information of the Party, in this Caſe the King ſhall have all the Forfeiture, and he may, before the Suit of the Informer, releaſe to the Party offending, and by it every other Perſon is excluded. 1 H. 7. 19.

The Statute of 21 H. 8. *c.* 13. is, If a Parſon take another Benefice beyond the yearly value of 8 *l.* without a Qualification, the firſt Benefice is void; This value ſhall not be taken as the Parſonage is valued in the Book of firſt-Fruits, but as it is valued in deed. *Dyer*, 237.

The Statute 21 H. 8. *c.* 13. ſays, that no Parſon of a Church, or ſuch Spiritual Man, ſhall take a Leaſe for years, for Life, or at Will, *&c.* upon pain of forfeiture for every Month that he ſhall occupy it, 10 *l.* to the King and Informer; But note, that the Leaſe is not made void by the ſaid Statute, as it has been ruled. *Dyer*, 358.

Note, no man can make Proclamation but by Authority of the King, as Mayors, and ſuch like, as have privileges in Cities aud Boroughs ſo to do, or have

have it by Cuſtom; And therefore where an Executor made Proclamations in certain Market Towns, that the Creditors ſhould come by a certain day, and claim, and prove their Debts due by the Teſtator, and becauſe he did this without Authority, he was committed to the *Fleet*, and fined. 22 H. *Br.* 8. 10.

Note, a Man ſhall not be made a Baſtard after the death of his Father and Mother, becauſe the marriage is determined, and if a Commiſſary after their death find ſuch Caſe of Divorce, and after ſuch Diovrce being made, after the death of one of the Parties, this ſhall never Baſtardize the Iſſue; and ſo it was taken in Parliament. 24 *H.* 8. *Baſtard. Br.* 23. 39. *c.* 3. 32.

Note, If a man gives Lands to one, and his Heirs Males, in this Caſe his Heirs Females ſhall alſo inherit; and this was alſo adjudged in Parliament, as *Thorpe* ſaid, 18 *La. p.* 5.

Note, It was written *Tybinry-broke*, in a Writ of Coſinage, and in the *Habere facias Viſum*, the Writ was *Tybinry* without *Broke*, and it was demanded of the King's Council, by *S. H. Green* and *Thorpe*, Juſtices, whether this word may be

be amended by the Statute of 14 E. 3. *c.* 6. which enacts, that the Justices may amend a Syllable or Letter, which is found too little or too much; and one of the Council answer'd, that it was a needless Question of them, whether it may be amended, for he said, that it may be well amended, be it a Syllable or a Letter, without which the Word cannot subsist, and no difference. 40 E. 3. 34. And so see the Justices demanded the intent of the makers of the Statute, of those that were of the King's Council.

Note, A Fifteenth is granted by Parliament, and it is well known by the Exchequer Roll how much every Town in *England* shall pay at every *Quinzim* granted. *Br.* 9. 34 *H.* 8. And if the Tenants pay for their Goods, the Lord shall not pay towards the Fifteen out of the Rents of the Lands that they occupy and enjoy. 7 *H.* 4. 33. 11 *H.* 4. 46.

A Town is charged upon a fifteen granted, at the sum of 4 *l.* and one of the Town by the Kings Charter is discharged of the fifteen in the same Town, so much as amounts to his part shall be recounted in the said 4 *l.* and the Town shall

ſhall be charged of the reſt. *Per Curiam*, 19 *H.* 6. 63.

Note, A Biſhop has a Mannor within which are Tenements by the Verge, by Copy of Court Roll; which Copy-holds, time out of Mind, have been taxed within the ſame manner to the Wages of the Knights of Parliament, and a good Preſcription, altho the Lord come to Parliament, and is charged for his Spiritual Poſſeſſions for the Diſmes or Tenths among the Clergy. *Vide Avow. Fitzh.* 260. 8 *R.* 2. according.

One is taxed for the *Fifteenth* in his Land, and when he perceived that the Collector was coming to diſtrain for the 15th; that is to ſay, for his part that he was to pay towards the 15th, he drove his Cattel out of the ſame Land, before the Collector could take them: he cannot purſue: by *Brian.* So for damage feaſant, 19 *E.* 4. 10. otherwiſe it is for Rent-ſervice. 44 *E.* 3. 20.

At the time of a 15th granted to the King, *A.* who lives in *W.* has Corn growing in *C.* and before the Aſſeſsment, he reaps and carries it to *W.* it ſhall be lyable for the goods in *W.* and not in *C.* and in a Replevin the Iſſue ſhall be, If

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at the time of the Aſſeſſation of the 15th the Corn were remaining in *C.* or at *W.* 21 *E.* 3. 42.

Note, The Fifteenth at this day is levied by Rods of Land moſt commonly, and in ſome places upon their Goods. *Quinz. Br.* 9. 34 *H.* 8.

Note, That where the Abby of Saint *Edmundsbury* was founded by the King's Progenitors, and exempted from all Epiſcopal Juriſdiction, ſo that no Ordinary could Viſit there, contrary to the Foundation, and Ordinance aforeſaid; upon a difference that was between *A.* Biſhop of *Norwich*, and *B.* Abbot of *Bury*, concerning that Exemption; It was Ordained at a Parliament of *William* the Conquerour, held ſuch a Year (by the Arch-biſhop of *Canterbury*, and all other Biſhops of the Realm, and by the Earls and Barons) that for the time to come, neither the Biſhop of *Norwich*, nor any of his Succeſſors, ſhould act contrary to the Points of the Exemption and Foundation aboveſaid; and that he that ſhall be Biſhop, ſhall pay to the King or his Heirs thirty Talents of Gold; and for that the Biſhop of *Norwich* that now is, has gone

gone contrary to this Ordinance of the King, a Contempt was iſſued againſt him, and the Biſhop pleaded Not Guilty, and was found Guilty; whereupon it was awarded, That the Biſhop's Temporalities ſhall be ſeized into the King's Hands, and that the King ſhall recover the ſaid Sum of Money. 21 E. 3. 60.

Note, Thoſe of *Ireland* are bound by the Statute of *England* for their Goods, if the Statute gives forfeiture of Goods, for doing a thing contrary to the Statute, but not for Land, or any thing touching Land there. 2 *R.* 3. *fol.* 12. And yet thoſe of *Ireland*, do not ſend any Lord, Knight, or Burgeſs to the Parliament of *England*, for they have a Parliament of their own when the King pleaſeth. *Vide* Action upon the Statute, *Fitzh.* 1. and 11 *H.* 6. where *Huſſey* Chief Juſtice ſaid, that the Statutes of *England* bind thoſe of *Ireland*, which was not much denied by the other Juſtices at that time, altho the Term before ſome were of a contrary Opinion. *Vide* 20 *H.* 6. 9. That thoſe of *Ireland* are not bound by the Statutes of *England*, as if Tenths be granted by the Parliament of *England*, thoſe of *Ireland* are not bound, becauſe they are not

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ſummoned to the Parliament of *England*.

Vide, *Fitzh. Nat. Brevium* 22. Error in the Kings-Bench of *Ireland*, reverſed in the Kings Bench of *England*. *Aſſiſ. Fitzh.* 328.

Vide Dier, 360. A Lord of *Ireland* ſhall not be tried in *England* for Treaſon done in *Ireland*, nor by his Peers, nor by Jury, becauſe he is a Subject of *Ireland*; And *England* and *Ireland* have ſeveral Seals; whereby it appeareth, that the Laws of *England* ſhall not bind thoſe of *Ireland* for their Land. *Dier*, 303. A man has Goods in *England*, and other Goods in *Ireland*, and dies inteſtate in *England*; and the Inteſtate has an Obligation of a Merchant that dwells in *Ireland*, which Obligation was in *England*, when he died, and the Son of the Inteſtate obtains the Adminiſtration of the Biſhop of *Dublin* for the Goods there, and the Wife of the Inteſtate of the Goods in *England*, of the Arch-Biſhop of *Canterbury* within his Province, the Son releaſeth to the Obligor in *Ireland*, and in Debt by the Wife of the Inteſtate, who has the Obligation in her Hand. This Releaſe was pleaded, and the iſſue taken was, whether the Obligation was in

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England or in *Ireland*, when the Obligee died. Out of which it may be collected, that the Arch-Biſhop of *Canterbury* had to do with it, and not the Biſhop of *Dublin*. *Dier* 305.

Vide p. 16. *El. Ro.* 436. *Lanc.* A Writ of Accompt was brought by *Steven Pinde*, by his Guardian aſſigned by the Court, after that he was of the Age of fourteen years, and before twenty one years, for the profits of Land in *Gavelkind*, received by *Giles Frankling* Defendant, Guardian of the ſaid *Pinde* Plaintiff, before fourteen years, and yet the Statute is, *Cum ad ætatem, &c.* and this is intended one and twenty years. *Vide* 29 E. 3. 3. Accompt for Land in *Gavelkind* after that the Heir came to fifteen years.

A man has Reſtitution by Act of Parliament, and a Writ of *Ouſter le main* iſſued forth to the Eſcheator, and the Tenant that had the Land, upon a Traverſe by him tendered, made *Reſcous*: If he had not notice of this Reſtitution, he ſhall not be puniſhed by Fine for that *Reſcous*, and the reaſon may be, for that it is a ſpecial Act. 43. *Lib. Aſſ.* 28.

Henric',

Henric', &c. *Vic.* Darby *salutem*; *Præcipimus tibi quod statim post receptionem præsentium in singulis locis infra Ballivas tuas, tam infra Libertates, quam extra, ubi magis expedire videris ex parte nostra solempniter, & publice Proclamation' fac' quædam Statuta, & Ordinationes per nos de Communi assensu Prælatorum, Magnatum, & Communit. Regni nostri in presenti Parliamenti nostri apud Westmonasterium pro communi utilitate totius Regni nostri prædicti, editi, & Provisi, quæ in quibusdam schedulis huic brevi nostro annex' per Latorem præsentium tibi mittimus, mandantes præterea quod immediate post Proclamationem sicut permitt. per te factas omnes & singul'. hujusmodi schædulas in separat' distinct', et public' locis, ut subditis et Ligeis nostris plenius apparere poterit, in Tabulis affigi, et poni similiter fac', et hoc sub periculo incumbente non omitti; Teste*, &c.

Note; That a special Bill against *J. P.* was put into Parliament, 33 *H.* 6. for Ravishing of a Woman, whereby it was ordained, that he come before the Lords within a certain day after the Proclamation made by the Sheriff of the County of *E.* after *Pentecost* next, and if he appeared not, then he should be attainted, and

and pay a certain Sum to the Woman, and this Bill was exhibited to the Commons after *Pentecost*, which was within the time of Parliament, that begun 15 *P.* before; *Anno Prædict'*. And the Lords gave day to *J. P.* to appear after *Pentecost*, *Anno* 1457, which was 34 *H.6.* within a day certain after the Proclamation, and this Bill was not sent to the Commons, as it ought to have been, for that the Lords gave a longer time than the Commons gave, and after *J. P.* did not appear according to the Proclamation, whereupon he was taken, and sent into the King's-Bench, and there pleaded by his Counsel, that the Act was not an Act, for that the Lords had given a longer day, *ut supra*, and the Bill was transcribed upon a *Certiorari* in Chancery, and by *Mittimus* of Chancery under the Seal there, was sent to the Justices, and the Writ was, *Rex Justitiariis suis*, &c. *Transcriptum cujusdam billæ coram nobis in Cancellariam nostram in filacio*, &c. *exhibit'*, *& authoritate ultimi Parliamenti nostri*, &c. *Confirm. versus* J. P. *Vobis mittimus*, by which, *&c.* And altho it is not an Act of Parliament in Law, for that the Lords gave a longer time, *ut supra*, yet

yet the Clerk of Chancery made the Writ, which was confirm'd by Parliament, and it was not ſo in Truth; And *Forteſcue*, in the Exchequer Chamber, ſeems, that it cannot be intended but that the Act is good, for that the King by his Writ certified the Juſtices, that the Bill was confirm'd by Parliament; But *Illingworth*, Chief Baron, ſaid, that it ſhall not be taken for an Act of Parliament; for the writing of a Clerk of Chancery cannot make an Act of Parliament good, if it be vitious or void in it ſelf; and after, *Forteſcue* ſaid, that this is an Act of Parliament, and he would be adviſed before he would make void an Act of Parliament; and ſo ſee, if a Certificat under the Seal of the Chancery of a Record there, ſhall be contradicted. *Vide Com.* 232. and 21 E. 3. 40. that a Man ſhall not have an Averment againſt a Certificat under the great Seal.

FINIS.